the Committee on Health, Education, Labor, and Pensions.

By Mr. SPECTER (for himself, Mr. HARKIN, Mr. BIDEN, Mr. JEFFORDS, and Mr. CHAFEE):

S. 216. A bill to establish a Commission for the comprehensive study of voting procedures in Federal, State, and local elections, and for other purposes; to the Committee on Rules and Administration.

By Mr. SCHUMER (for himself, Mr. WARNER, Mr. DURBIN, Mr. SANTORUM, Mr. SARBANES, Mr. CHAFEE, Mr. VOINOVICH, Mr. KERRY, Mr. DODD, and Ms. MIKULSKI):

S. 217. A bill to amend the Internal Revenue Code of 1986 to provide a uniform dollar limitation for all types of transportation fringe benefits excludable from gross income, and for other purposes; to the Committee on Finance.

By Mr. MCCONNELL (for himself, Mr. TORRICELLI, Mrs. FEINSTEIN, Mr. ALLARD, Mr. SMITH of Oregon, Ms. LANDRIEU, Mr. BURNS, Mr. BENNETT, Mr. BREAUX, Mr. HUTCHINSON, Mr. SANTORUM, Mr. WARNER, Mr. REID, and Mr. ROBERTS):

S. 218. A bill to establish an Election Administration Commission to study Federal, State, and local voting procedures and election administration and provide grants to modernize voting procedures and election administration, and for other purposes; to the Committee on Rules and Administration.

By Mr. DODD (for himself, Mr. MCCAIN, Mr. HOLLINGS, and Mr. HAGEL):

S. 219. A bill to suspend for two years the certification procedures under section 490(b) of the Foreign Assistance Act of 1961 in order to foster greater multilateral cooperation in international counternarcotics programs, and for other purposes; to the Committee on Foreign Relations.

By Mr. GRASSLEY (for himself, Mr. SESSIONS, and Mr. HATCH):

S. 220. A bill to amend title 11, United States Code, and for other purposes; read the first time.

By Mrs. BOXER:

S. 221. A bill to authorize the Secretary of Energy to make loans through a revolving loan fund for States to construct electricity generation facilities for use in electricity supply emergencies; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. Res. 15. A resolution congratulating the Baltimore Ravens for winning the Super Bowl XXXV; considered and agreed to.

By Mr. INOUYE:

S. Con. Res. 5. A concurrent resolution commemorating the 100th Anniversary of the United States Army Nurse Corps; to the Committee on the Judiciary.

By Mr. TORRICELLI (for himself and Mr. BROWNBACK):

S. Con. Res. 6. A concurrent resolution expressing the sympathy for the victims of the devastating earthquake that struck India on January 26, 2001, and support for ongoing aid efforts; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. COLLINS (for herself, Mr. KYL, and Ms. LANDRIEU):

S. 203. A bill to amend the Internal Revenue Code of 1986 to provide an above-the-line deduction for qualified professional development expenses of elementary and secondary school teachers and to allow a credit against income tax to elementary and secondary school teachers who provide classroom materials; to the Committee on Finance.

Ms. COLLINS. Mr. President, I rise today with my friend and colleague from Arizona, Senator KYL, to introduce the Teacher Support Act of 2001. We are very pleased to be joined by our good friend and colleague, Senator LANDRIEU, in proposing this legislation.

Senator KYL and I crafted this bill to help our teachers when they pursue professional development or pay for supplies for their classrooms.

Our legislation has two major provisions.

First, it will allow teachers and teacher aides to take an above-the-line deduction for their professional development expenses. Thus, educators who don't itemize their deductions will still be able to benefit from tax-favored treatment for their professional development.

Second, the legislation will grant educators a tax credit of up to $100 for books, supplies, and other materials that they purchase for their classrooms. According to a study by the National Education Association, the average public school teacher spends more than $400 annually on classroom supplies. This sacrifice, I think, is typical of the dedication of many of our schoolteachers toward their students.

While our legislation provides some financial assistance to educators, its ultimate beneficiaries will be their students. Other than involved parents, a well-qualified teacher is the most important prerequisite for students' success. Educational researchers have demonstrated over and over again the close relationship between qualified educators and successful students. Moreover, educators themselves understand how important professional development is to maintaining and extending their level of competence.

Mr. President, when I meet with teachers from my State of Maine, they repeatedly tell me of their need for more professional development and the scarcity of financial support for this worthy pursuit. As President Bush has put it, ''Teachers sometimes lead with their hearts and pay with their wallets.''

The willingness of Maine's teachers to fund their own professional development activities has deeply impressed me. For example, an English teacher, who serves on my education advisory committee, told me of spending her own money to attend a curriculum conference. She then came back and shared her new knowledge with all of the teachers in her department at Bangor High School. She is typical of the many educators who generously reach into their own pockets to pay for professional development and to purchase materials to enhance their teaching.

Let me explain how our legislation works in terms of real dollars. In my home State, the average yearly starting salary of a public school teacher is about $23,300. Under the current law, even a teacher who is earning this modest salary cannot deduct the first $466 in professional development expenses that he or she paid for out-of-pocket. That is because of the requirement in the current law that sets a floor of 2 percent that has to be reached before the cost of the course or other professional development is deductible. Moreover, under current law, professional development expenses above $466 can be deducted only if the teacher itemizes his or her deductions. Only about one-third of our Nation's schoolteachers do itemize their tax deductions.

Our legislation would enable all educators, regardless of whether or not they itemize deductions, to receive tax relief for professional development expenses.

I greatly admire the many educators who have voluntarily financed additional education to improve their skills so that they may better serve their students. I admire those teachers who purchase books, supplies, equipment, and other materials for their students in order to enhance their teaching.

I hope this change in our Tax Code will encourage educators to continue their formal course work in the subject matter they teach and to attend conferences to give them new ideas for presenting course work in a challenging manner. This bill will reimburse educators for a small part of what they invest in our children's future. This money would be well spent. Investing in education helps us to build one of the most important assets for our country's future—a well educated population. We need to ensure that our public schools have the very best educators possible in order to bring out the very best in our students.

Last year, Senator KYL and I offered a similar version of this legislation as an amendment to the Affordable Education Act of 2000. Our amendment enjoyed overwhelming support and passed the Senate by a vote of 98–0. Unfortunately, the underlying bill was not taken up by the House of Representatives.

This year, we are very pleased that President Bush has made the classroom supplies portion of our bill part of his education platform, and that our legislation has received the support of the

National Education Association. Our hope is that the bill will become law before the end of the year. We urge our colleagues to join us in supporting this legislation.

Mr. President, I ask unanimous consent to print the bill in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Teacher Support Act of 2001''.

SEC. 2. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) DEDUCTION ALLOWED.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

''SEC. 222. QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES.

''(a) ALLOWANCE OF DEDUCTION.—In the case of an eligible teacher, there shall be allowed as a deduction an amount equal to the qualified professional development expenses paid or incurred by the taxpayer during the taxable year.

''(b) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES OF ELIGIBLE TEACHERS.—For purposes of this section—

''(1) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES.—

''(A) IN GENERAL.—The term 'qualified professional development expenses' means expenses for tuition, fees, books, supplies, equipment, and transportation required for the enrollment or attendance of an individual in a qualified course of instruction.

''(B) QUALIFIED COURSE OF INSTRUCTION.—The term 'qualified course of instruction' means a course of instruction which—

''(i) is—

''(I) directly related to the curriculum and academic subjects in which an eligible teacher provides instruction, or

''(II) designed to enhance the ability of an eligible teacher to understand and use State standards for the academic subjects in which such teacher provides instruction,

''(ii) may—

''(I) provide instruction in how to teach children with different learning styles, particularly children with disabilities and children with special learning needs (including children who are gifted and talented), or

''(II) provide instruction in how best to discipline children in the classroom and identify early and appropriate interventions to help children described in subclause (I) to learn,

''(iii) is tied to challenging State or local content standards and student performance standards,

''(iv) is tied to strategies and programs that demonstrate effectiveness in increasing student academic achievement and student performance, or substantially increasing the knowledge and teaching skills of an eligible teacher,

''(v) is of sufficient intensity and duration to have a positive and lasting impact on the performance of an eligible teacher in the classroom (which shall not include 1-day or short-term workshops and conferences), except that this clause shall not apply to an activity if such activity is 1 component described in a long-term comprehensive professional development plan established by an eligible teacher and the teacher's supervisor based upon an assessment of the needs of the teacher, the students of the teacher, and the local educational agency involved, and

''(vi) is part of a program of professional development which is approved and certified by the appropriate local educational agency as furthering the goals of the preceding clauses.

''(C) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given such term by section 14101 of the Elementary and Secondary Education Act of 1965, as in effect on the date of the enactment of this section.

''(2) ELIGIBLE TEACHER.—

''(A) IN GENERAL.—The term 'eligible teacher' means an individual who is a kindergarten through grade 12 classroom teacher or aide in an elementary or secondary school for at least 720 hours during a school year.

''(B) ELEMENTARY OR SECONDARY SCHOOL.—The terms 'elementary school' and 'secondary school' have the meanings given such terms by section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), as so in effect.

''(c) DENIAL OF DOUBLE BENEFIT.—

''(1) IN GENERAL.—No other deduction or credit shall be allowed under this chapter for any amount taken into account for which a deduction is allowed under this section.

''(2) COORDINATION WITH EXCLUSIONS.—A deduction shall be allowed under subsection (a) for qualified professional development expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135, 529(c)(1), or 530(d)(2) for the taxable year.''.

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) of the Internal Revenue Code of 1986 is amended by inserting after paragraph (17) the following new paragraph:

''(18) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES.—The deduction allowed by section 222.''.

(c) CONFORMING AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 222 and inserting the following new items:

''Sec. 222. Qualified professional development expenses.

''Sec. 223. Cross reference.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 3. CREDIT TO ELEMENTARY AND SECONDARY SCHOOL TEACHERS WHO PROVIDE CLASSROOM MATERIALS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to other credits) is amended by adding at the end the following new section:

''SEC. 30B. CREDIT TO ELEMENTARY AND SECONDARY SCHOOL TEACHERS WHO PROVIDE CLASSROOM MATERIALS.

''(a) ALLOWANCE OF CREDIT.—In the case of an eligible teacher, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the qualified elementary and secondary education expenses which are paid or incurred by the taxpayer during such taxable year.

''(b) MAXIMUM CREDIT.—The credit allowed by subsection (a) for any taxable year shall not exceed $100.

''(c) DEFINITIONS.—

''(1) ELIGIBLE TEACHER.—The term 'eligible teacher' means an individual who is a kindergarten through grade 12 classroom teacher, instructor, counselor, aide, or principal in an elementary or secondary school on a full-time basis for an academic year ending during a taxable year.

''(2) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—The term 'qualified elementary and secondary education expenses' means expenses for books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by an eligible teacher in the classroom.

''(3) ELEMENTARY OR SECONDARY SCHOOL.—The term 'elementary or secondary school' means any school which provides elementary education or secondary education (through grade 12), as determined under State law.

''(d) SPECIAL RULES.—

''(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any expense for which credit is allowed under this section.

''(2) APPLICATION WITH OTHER CREDITS.—The credit allowable under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(A) the regular tax for the taxable year, reduced by the sum of the credits allowable under subpart A and the preceding sections of this subpart, over

''(B) the tentative minimum tax for the taxable year.

''(e) ELECTION TO HAVE CREDIT NOT APPLY.—A taxpayer may elect to have this section not apply for any taxable year.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 30B. Credit to elementary and secondary school teachers who provide classroom materials.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

Mr. KYL. Mr. President, I was an original cosponsor of the Teacher Support Act of 2001. Working together last year, Senator COLLINS and I, with invaluable assistance from our departed colleague Paul Coverdell, persuaded the Senate to pass almost identical legislation by a vote of 98–0.

Like the amendment approved by the Senate last year, the Teacher Support Act would provide an annual tax credit of up to $100 for teachers' un-reimbursed classroom expenditures that are qualified under the Internal Revenue Code. For amounts over $100, teachers would continue to use the deductions allowed for such expenses under current law.

We know the need this legislation addresses is real. According to a recent study by the NEA, the average K–12 teacher spent $408 every year on classroom materials needed for education but not supplied by the schools. These materials include everything from books, workbooks, erasers, paper, pens,

equipment related to classroom instruction, and professional enrichment programs.

In my discussions with teachers—public and private—I have been amazed to learn that many use their own money to cover the cost of classroom materials that are not supplied by their school or school district.

I have attended intense meetings in which Arizona teachers have related to me, in confidence, that they have used money from the family budget, without telling their spouses, for needed classroom supplies, and that though they feel wracked with guilt, they would do it again for their students. The Teacher Support Act stands for the idea that teachers should not feel compelled to make such sacrifices.

Though there is no absolute linkage between personal contributions for school supplies and the quality of the teaching, there likely is some correlation, given the degree of commitment evidenced by these teachers who are spending their own money. To the extent this is true, the proposal will have the effect of encouraging instruction of the highest quality.

I am pleased that President Bush campaigned on a similar proposal last year, and that he has included it in the education package he announced last week. This legislation, sends a much-needed message to the hard-working teachers of this country that they have our support, and that, working together, we can improve education for America's children.

Ms. LANDRIEU. Mr. President, as you well know, the need for reform in the American education system is a priority for many members of Congress, as well as for President Bush and his newly assembled administration. While there still is some debate over a few remaining issues such as annual testing and private school vouchers, it is clear that there is much that we agree must be addressed if our children are to receive the type of education necessary to be competitive in the 21st century. Almost no one disagrees that focused efforts to recruit and retain qualified teachers are the key to increasing student achievement. Today, research is confirming what common sense has suggested all along. A skilled and knowledgeable teacher can make enormous difference in how well students learn. One Tennessee study found that the students who had good teachers three years in a row scored significantly higher on state tests and made far greater gains than students with a series of ineffective teachers. Another study conducted at Stanford found that the strongest indicator of how a state's students performed on National assessments was the percentage of well qualified teachers.

The Department of Education estimates that 2,000,000 new teachers will have to be hired in the next decade. Yet, each year, only 60,000 college graduates enter into teaching. In my home state of Louisiana, almost one in five of our teachers has not completed the standard regimen for teaching. One of the main detractors for qualified professionals to choose to enter the profession of teaching is simply that the salaries cover little more than life's daily expenses. While the amount of salary a teacher makes is not determined by the federal government, that does not preclude us from putting forth innovative strategies to address the gaps left by these salaries. In fact, I think it is our responsibility to do all that we can to assist states in their efforts to bring the best and the brightest teachers into our nation's classrooms. The federal tax code provides us with several opportunities to acknowledge and reward teachers for the work that they do for our children everyday.

I am proud to join Senator COLLINS in introducing the ''Teacher Support Act of 2001''. This bill allows educators to receive a tax credit for some of the costs associated with furthering their professional development. Specifically, it will allow educators to deduct professional development expenses, without requiring the deduction to be subject to the existing two percent floor. In addition, this legislation creates an above the line deduction, allowing for teachers who do not itemize their taxes to take advantage of these helpful benefits. And finally, it allows educators to claim a tax credit of up to $100 for books, supplies, and equipment that they purchase for their students.

This is the first of the many steps we as a body must take toward building a system of supports for our teachers. This small investment will have an inordinate impact on their ability to provide effective instruction to our nation's school children. Henry B. Adams once said ''A teacher affects eternity; he can never tell, where his influence stops.'' With this in mind, I ask you to support this bill and others like it, so that we can truly affect the future of education in America.

By Mrs. HUTCHISON (for herself, Mr. DURBIN, and Mr. LEVIN):

S. 205. A bill to amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, today I rise to introduce legislation that will enhance and encourage charitable contributions in the United States.

As many know, this week, the President is set to unveil a number of initiatives to promote charitable giving and to expand the role that charities and faith-based institutions play in attacking social problems in the United States.

Government alone is incapable of solving society's most vexing problems. In fact, government programs often fail in their missions. The old welfare system is a perfect example of what often goes wrong. Under the old system, we encouraged people to stay on welfare. We encouraged out-of-wedlock births. We encouraged fathers to live out of the home. We ended this with our welfare reform bill. Welfare rolls have now dropped by half across the United States.

The track record of charitable organizations have been far superior than the government's in tackling social ills. America's top charities cover a broad range of problems, from the Salvation Army to the YMCA, and the American Cancer Society to the Red Cross. Each is playing a role in improving America's health, education and welfare. How successful can they be? It has been known that mentors in the Big Brothers/Big Sisters program can cut drug abuse by 50 percent.

Americans appreciate the role of these groups. They are actively involved in charitable causes. Nearly half of all Americans volunteer in some capacity on a regular basis.

Nearly 25 percent of all Americans are active in their religion on a volunteer basis. This is why it is so logical to use faith-based organizations as means of accomplishing objectives at which the government has failed. The Chicago Tribune recently noted that ''churches, temples and prayer halls cannot replace the mammoth task of helping the needy. But, they do a better and more efficient job of understanding their communities and meeting the need of their citizens.''

The legislation I am introducing today will make it easier for charitable contributions to the made and for charitable organizations to pursue their missions. Under this bill, individuals age 59½ and older will be able to move assets penalty-free from an IRA directly to a charity or into a qualifying deferred charitable gift plan, such as a charitable remainder trust, pooled income fund or gift annuity. Current law requires taxpayers to first withdraw the IRA proceeds, pay the taxes due and then contribute the funds to a charity. Taxes can be offset by the current charitable deduction, but only to an extent.

Americans currently hold well over $1 trillion in assets in IRAs, and nearly half of America's families have IRAs. This bill will allow senior citizens who have provided for their retirement—but find that they do not need their entire IRA for living expenses—to transfer IRA funds to charity without dilution. This will cut bureaucratic obstacles to charitable giving and unlock a substantial amount of new funds that could flow to America's charitable organizations.

I first introduced this legislation in 1998, and it was folded into our tax bill

in 1999. Regrettably, it was vetoed by the President. But, given our new leadership in the White House, this is an idea whose time has come. In fact, President Bush made this part of his tax plan when it was unveiled in 1999.

This is also not a partisan proposal. Senator DURBIN was an original cosponsor of this legislation. I look forward to working with him, and the White House on this bill. It also has the support of numerous universities and charitable groups, including the Charitable Accord and the Council of Foundations, two umbrella organizations representing more than 2,000 organizations and associations.

Mr. DURBIN. Mr. President, I am pleased to introduce, along with Senator KAY BAILEY HUTCHISON, the charitable IRA Rollover Act of 2001. We introduced this legislation in the last Congress. While it was included in last year's year-end tax bill, our provision was unfortunately stripped out at the last minute. Senator HUTCHISON and I sincerely hope that this legislation will become law this year.

The IRA Charitable Rollover Act has the support of numerous charitable organizations across the United States. The effect of this bill would be to unlock billions of dollars in savings Americans hold and make them available to charities. Our legislation will allow individuals to roll assets from an Individual Retirement Account (IRA) into a charity or a deferred charitable gift plan without incurring any income tax consequences. Thus, the donation would be made to charity without ever withdrawing it as income and paying tax on it.

Americans currently hold well over $1 trillion in assets in IRAs. Nearly half of America's families have IRAs. Recent studies show that assets of qualified retirement plans comprise a substantial part of the net worth of many persons. Many of these individuals would like to give a portion of these assets to charity.

Under our current law, if an IRA is transferred into a charitable remainder trust, donors are required to recognize that as income. Therefore, absent the changes called for in the legislation, the donor will have taxable income in the year the gift is funded. This is a huge disincentive contained in our complicated and burdensome tax code. This legislation will unleash a critical source of funding for our nation's charities. This legislation will provide millions of Americans with a common sense way to remove obstacles to private charitable giving.

Under the Hutchison-Durbin plan, an individual, upon reaching age 59½, could move assets penalty-free from an IRA directly to charity or into a qualifying deferred charitable gift plan—e.g. charitable remainder trusts, pooled income funds and gift annuities. In the latter case the donor would be able to receive an income stream from the retirement plan assets, which would be taxed according to normal rules. Upon the death of the individual, the remainder would be transferred to charity.

There are numerous supporters of this legislation including Georgetown University, the Art Institute of Chicago, the University of Chicago, the Field Museum, the Catholic Diocese of Peoria, Northwestern University, the Chicago Symphony Orchestra, and others. There are over 100 groups in Illinois alone that support this sensible legislation.

I hope the Senate will join in this bipartisan effort to provide a valuable new source of philanthropy for our nation's charities. I hope that our colleagues will co-sponsor this important piece of legislation and that it will be enacted into law this year. I thank the Senator from Texas, Senator HUTCHISON, for working with me and my staff in this effort.

By Mr. SHELBY (for himself, Mr. MURKOWSKI, Mr. SARBANES, Mr. GRAMM, Mr. DODD, Mr. LOTT, Mr. CRAIG, and Mr. CRAPO):

S. 206. A bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 2001, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SHELBY. Mr. President, I rise today to introduce the Public Utility Holding Company Act of 2001. This bipartisan bill is designed to help America's energy consumers by repealing an antiquated law that is keeping the benefits of competition from reaching our citizens. I am pleased to be joined by Senators GRAMM and SARBANES, chairman and ranking member of the Committee on Banking, Housing, and Urban Affairs, Senator MURKOWSKI, chairman of the Energy and Natural Resources Committee, Majority Leader LOTT, and Senators DODD, CRAIG, and CRAPO in introducing this important legislation. Our bill, which closely tracks legislation voted out of the Senate Banking Committee with bipartisan support in the 106th Congress, repeals the Public Utility Holding Company Act of 1935, PUHCA.

The original PUHCA legislation passed over 60 years ago in 1935. At that time, a few large holding companies controlled a great majority of the electric utilities and gas pipelines. However, such a limited number of providers no longer offer a majority of the utility service. In fact, over 80 percent of the utility holding companies are currently exempt from PUHCA.

This legislation implements the recommendations that the Securities and Exchange Commission, SEC made first in 1981 and then again in 1995 following an extensive study of the effects of this antiquated law on our energy markets. In the 1995 report entitled. ''The Regulation of Public-Utility Holding Companies,'' the Division of Investment Management recommended that Congress conditionally repeal the Act since ''the current regulatory system imposes significant costs, indirect administrative charges and foregone economies of scale and scope . . .'' In the end, the report serves to highlight the fact that the regulatory restraints imposed by PUHCA on our electric and gas industries are counterproductive in today's competitive environment and are based on historical assumptions and industry models that are no longer valid.

In order to ensure that ratepayers are protected, this bill provides the Federal Energy Regulatory Commission and the States access to the books and records of holding company systems that are relevant to the costs incurred by jurisdictional public utility companies. As a result, the regulatory framework to protect consumers is not only protected in this bill, but enhanced.

Let me be clear about the effect of PUHCA repeal: it eliminates redundant and burdensome regulation while enhancing existing consumer protections.

Mr. President, we are at a time in our nation's history when we are going to have to make some critical choices regarding our national energy policy. The fact is, future technological innovation and economic growth is contingent upon this country's ability to meet its ever-increasing demand for energy. In order to do this, we need to modernize production systems, increase market competition, and strip away unnecessary regulations. Achieving these goals is going to be a difficult and time consuming process. However, repeal of this law would be the first step in the right direction.

Mr. President, it has been a very long time since it first became clear that this out dated, Depression-era law had become an unnecessary constraint on the ability of American gas and electric utilities to compete. Unfortunately, the many bipartisan efforts to repeal PUHCA have not been successful. However, strong support still exists for its elimination. I believe that it is imperative that we achieve this goal in the 107th Congress.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 206

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Public Utility Holding Company Act of 2001''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Public Utility Holding Company Act of 1935 was intended to facilitate the

work of Federal and State regulators by placing certain constraints on the activities of holding company systems;

(2) developments since 1935, including changes in other regulation and in the electric and gas industries, have called into question the continued relevance of the model of regulation established by that Act;

(3) there is a continuing need for State regulation in order to ensure the rate protection of utility customers; and

(4) limited Federal regulation is necessary to supplement the work of State commissions for the continued rate protection of electric and gas utility customers.

(b) PURPOSES.—The purposes of this Act are—

(1) to eliminate unnecessary regulation, yet continue to provide for consumer protection by facilitating existing rate regulatory authority through improved Federal and State commission access to books and records of all companies in a holding company system, to the extent that such information is relevant to rates paid by utility customers, while affording companies the flexibility required to compete in the energy markets; and

(2) to address protection of electric and gas utility customers by providing for Federal and State access to books and records of all companies in a holding company system that are relevant to utility rates.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term ''affiliate'' of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company;

(2) the term ''associate company'' of a company means any company in the same holding company system with such company;

(3) the term ''Commission'' means the Federal Energy Regulatory Commission;

(4) the term ''company'' means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing;

(5) the term ''electric utility company'' means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale;

(6) the terms ''exempt wholesale generator'' and ''foreign utility company'' have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), as those sections existed on the day before the effective date of this Act;

(7) the term ''gas utility company'' means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power;

(8) the term ''holding company'' means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this Act upon holding companies;

(9) the term ''holding company system'' means a holding company, together with its subsidiary companies;

(10) the term ''jurisdictional rates'' means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use;

(11) the term ''natural gas company'' means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale;

(12) the term ''person'' means an individual or company;

(13) the term ''public utility'' means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce;

(14) the term ''public utility company'' means an electric utility company or a gas utility company;

(15) the term ''State commission'' means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies;

(16) the term ''subsidiary company'' of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this Act upon subsidiary companies of holding companies; and

(17) the term ''voting security'' means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 4. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is repealed.

SEC. 5. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission deems to be relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(b) AFFILIATE COMPANIES.—Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission deems to be relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) HOLDING COMPANY SYSTEMS.—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission deems to be relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) CONFIDENTIALITY.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

SEC. 6. STATE ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Upon the written request of a State commission having jurisdiction to regulate a public utility company in a holding company system, the holding company or any associate company or affiliate thereof, other than such public utility company, wherever located, shall produce for inspection books, accounts, memoranda, and other records that—

(1) have been identified in reasonable detail in a proceeding before the State commission;

(2) the State commission deems are relevant to costs incurred by such public utility company; and

(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

(b) LIMITATION.—Subsection (a) does not apply to any person that is a holding company solely by reason of ownership of one or more qualifying facilities under the Public Utility Regulatory Policies Act of 1978.

(c) CONFIDENTIALITY OF INFORMATION.—The production of books, accounts, memoranda, and other records under subsection (a) shall be subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information.

(d) EFFECT ON STATE LAW.—Nothing in this section shall preempt applicable State law concerning the provision of books, records, or any other information, or in any way limit the rights of any State to obtain books, records, or any other information under any other Federal law, contract, or otherwise.

(e) COURT JURISDICTION.—Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.

SEC. 7. EXEMPTION AUTHORITY.

(a) RULEMAKING.—Not later than 90 days after the effective date of this Act, the Commission shall promulgate a final rule to exempt from the requirements of section 5 any person that is a holding company, solely with respect to one or more—

(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978;

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) OTHER AUTHORITY.—The Commission shall exempt a person or transaction from the requirements of section 5, if, upon application or upon the motion of the Commission—

(1) the Commission finds that the books, records, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility or natural gas company; or

(2) the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company.

SEC. 8. AFFILIATE TRANSACTIONS.

Nothing in this Act shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public utility company from an associate company.

SEC. 9. APPLICABILITY.

No provision of this Act shall apply to, or be deemed to include—

(1) the United States;

(2) a State or any political subdivision of a State;

(3) any foreign governmental authority not operating in the United States;

(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3); or

(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), or (3) acting as such in the course of his or her official duty.

SEC. 10. EFFECT ON OTHER REGULATIONS.

Nothing in this Act precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

SEC. 11. ENFORCEMENT.

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825e–825p) to enforce the provisions of this Act.

SEC. 12. SAVINGS PROVISIONS.

(a) IN GENERAL.—Nothing in this Act prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on the effective date of this Act.

(b) EFFECT ON OTHER COMMISSION AUTHORITY.—Nothing in this Act limits the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) (including section 301 of that Act) or the Natural Gas Act (15 U.S.C. 717 et seq.) (including section 8 of that Act).

SEC. 13. IMPLEMENTATION.

Not later than 18 months after the date of enactment of this Act, the Commission shall—

(1) promulgate such regulations as may be necessary or appropriate to implement this Act (other than section 6); and

(2) submit to the Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this Act and the amendments made by this Act.

SEC. 14. TRANSFER OF RESOURCES.

All books and records that relate primarily to the functions transferred to the Commission under this Act shall be transferred from the Securities and Exchange Commission to the Commission.

SEC. 15. EFFECTIVE DATE.

This Act shall take effect 18 months after the date of enactment of this Act.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as may be necessary to carry out this Act.

SEC. 17. CONFORMING AMENDMENT TO THE FEDERAL POWER ACT.

Section 318 of the Federal Power Act (16 U.S.C. 825q) is repealed.

By Mr. FRIST (for himself, Mr. HARKIN, Mr. JEFFORDS, Mr. KENNEDY, Mr. HUTCHINSON, Ms. MIKULSKI, Mr. BINGAMAN, Mrs. MURRAY, and Mr. REED):

S. 208. A bill to reduce health care costs and promote improved health care by providing supplemental grants for additional preventive health services for women; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRIST. Mr. President, although we often think of cardiovascular disease as a men's health issue, the American Heart Association estimates that nearly one in two women will die of heart disease or stroke. However, because of its historically male stereotype, most women do not realize that they are at such high risk for cardiovascular disease even though cardiovascular diseases kills nearly 50,000 more women each year than men. Even more alarming is data reported by the Society for Women's Health Research which revealed that not all physicians know that cardiovascular diseases are the leading cause of death among American women.

Each year nearly half a million women lose their lives as a result of heart disease and stroke. Fortunately, men have experienced a decline in deaths due to cardiovascular diseases since 1984; but women have not, and many of these tragic deaths could have been prevented had these women known they were at risk. For instance, they could have taken preventive measures by not smoking, lowering their cholesterol or blood pressure, or by eating more nutritiously, and perhaps avoided becoming a victim of heart disease or stroke. For many women, prevention is truly the only cure, since it has been reported that as many as two-thirds of women who die from heart attacks have no warning symptoms of any kind.

Cardiovascular diseases kill more American females each year than the next 14 causes of death combined, including all forms of cancers. Over half of all cardiovascular deaths each year are women, and in 1997 alone heart diseases claimed the lives of more than half a million women. My own home state of Tennessee has the second highest death rate from heart disease, stroke, and other cardiovascular diseases in the nation and the 13th highest ranking state in women's heart deaths. In 1997, 10,884 Tennessee women died from these two cardiovascular diseases alone. Moreover, the Centers for Disease Control and Prevention (CDC) reports that women in the rural South are more likely to die of heart disease than those in other parts of the country.

Fortunately, some preventive measures, such as physical activity and better nutrition, can be taken by women to reduce their risk for cardiovascular diseases, as well as other preventable diseases, such as osteoporosis—a disease that affects one out of every two women over 50 and threatens roughly 28 million Americans, 80 percent of whom are women.

To continue to draw greater awareness to health issues among American women, particularly cardiovascular diseases, I am very pleased to reintroduce legislation which I introduced last Congress, the ''WISEWOMAN Expansion Act of 2001,'' with Senator HARKIN. Our goal in expanding this program is to reduce the risk of cardiovascular diseases, and other preventable diseases, and to increase access to screening and other preventive measures for low-income and underinsured women. In addition to making cardiovascular diseases screening accessible to underserved women, this program will also educate them about their risk for cardiovascular diseases and how to make lifestyle changes—thereby giving them the power to prevent these diseases.

The CDC's National Breast and Cervical Cancer Early Detection Program (NBCCEDP) is an example of a successful program that has provided critical services to help prevent major diseases affecting American women. The NBCCEDP has done an outstanding job of reaching out to low-income underinsured women—women who are generally too young for Medicare and unable to qualify for Medicaid or other state programs—and providing them with preventive screenings for breast and cervical cancers. These women would likely otherwise fall through the cracks in our health system.

Our bill provides for the expansion of the WISEWOMAN (Well-Integrated Screening and Evaluation for Women in Massachusetts, Arizona, and North Carolina) demonstration project, which is run by the CDC in conjunction with the NBCCEDP, to additional states. The WISEWOMAN program capitalizes on the highly successful infrastructure of the NBCCEDP to offer ''one-stop shopping'' screening and preventive services for uninsured and low-income women. In addition to these very important breast and cervical cancer screenings, WISEWOMAN screens for cardiovascular disease risk factors and provides health counseling and lifestyle interventions to help women reduce behavioral risk factors. The program addresses risk factors such as elevated cholesterol, high blood pressure, obesity and smoking and provides important additional intervention and

educational services to women who would not otherwise have access to cardiovascular disease screening or prevention. This bill also adds flexibility to the program language that would allow screenings and other preventive measures for diseases in addition to cardiovascular diseases, such as osteoporosis, as more preventive technology is developed.

I would like to thank Judy Womack and Dr. Joy Cox of the Tennessee Department of Health for their counsel and assistance on this legislation and for their efforts in helping Tennesseans.

I ask unanimous consent that three letters supporting the WISEWOMAN Expansion Act of 2001 be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN HEART ASSOCIATION,
OFFICE OF PUBLIC ADVOCACY,
Washington, DC, January 26, 2001.

Hon. BILL FRIST, M.D.,
Hon. TOM HARKIN,
United States Senate,
Washington, DC.

DEAR SENATORS FRIST AND HARKIN: Heart attack, stroke and other cardiovascular diseases remain the leading cause of death of women in the United States. Heart disease, alone, is the number one killer of American women and stroke is the number three killer. In fact, low-income women are at an even higher risk of heart disease and stroke than other women, and they have a higher prevalence of risk factors contributing to these diseases. The American Heart Association is very grateful for the support you and other members of the United States Congress have given to the WISEWOMAN demonstration program which uses the National Breast and Cervical Cancer Early Detection Program network to provide heart disease and stroke screening services, as well as diet and physical activity interventions and appropriate referrals.

The American Heart Association applauds the WISEWOMAN program and we are anticipating even greater results in the battle against heart disease and stroke as the program expands to serve more women throughout the United States. The Frist-Harkin ''WISEWOMAN Expansion Act of 2001'' will expand WISEWOMAN's heart disease and stroke screenings beyond its current limit, which we believe will have a tremendous positive impact to the cardiovascular health of women who live in states served by the program.

The American Heart Association recommends increased funding and expansion of the WISEWOMAN program during fiscal year 2002. Also, because of the solid scientific evidence that cardiovascular screenings can help prevent heart disease and stroke in women, we believe cardiovascular screenings provided by WISEWOMAN should be expanded before using the demonstration program to provide screenings for other diseases affecting women.

We thank you for your commitment to fighting heart disease and stroke, and look forward to your continued support in the future.

Sincerely,
ROSE MARIE ROBERTSON, M.D.,
President.

SOCIETY FOR
WOMEN'S HEALTH RESEARCH,
Washington, DC, January 25, 2001.

Hon. BILL FRIST,
Chair, Subcommittee on Public Health, Committee on Health, Education, Labor, and Pensions, Dirksen Senate Office Building, Washington, DC.
Hon. TOM HARKIN,
Ranking Member, Subcommittee on Public Health, Committee on Health, Education, Labor, and Pensions, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS FRIST AND HARKIN: On behalf of the Society for Women's Health Research, we express our appreciation for your leadership on the introduction of the ''WISEWOMAN Expansion Act of 2001.'' In addition to a strong national research program, disease prevention is vital to our nation's health. Chronic diseases, such as heart disease, cancer, diabetes, and osteoporosis are among the most prevalent, costly, and preventable of all health problems.

As you know, women tend to live longer but not necessarily better than men. They have more chronic health conditions and are more economically insecure. Safety net programs often are the difference between life and death. The WISEWOMAN Expansion Act is building on a foundation that has provided positive feedback and will allow additional states to provide prevention services to those women in need. We applaud the flexibility of the legislation. With the passage of time, as new technologies develop, as disease burdens shift, and as lifestyles change, the program can address women's most critical health needs.

We thank you for your commitment to improving the nation's health through prevention. By focusing on the health of women, you ultimately will be improving the health of the nation's families.

Sincerely,
PHYLISS GREENBERGER,
President and CEO.
ROBERTA BIEGEL,
Director of Government Relations.

NATIONAL OSTEOPOROSIS FOUNDATION,
January 29, 2001.

Hon. TOM HARKIN,
Hon. BILL FRIST,
U.S. Senate, Washington, DC.

DEAR SENATORS HARKIN AND FRIST: On behalf of the National Osteoporosis Foundation (NOF), I commend you on the introduction of the bipartisan WISEWOMAN Expansion Act of 2001 that supports your effort to provide additional preventive health services, including osteoporosis screening, to low-income and uninsured women.

As you know, osteoporosis is a major health threat for more than 28 million Americans, 80 percent of whom are women. In the United States today, 10 million individuals already have the disease and 18 million more have low bone mass, placing them at increased risk for osteoporosis. Also, one out of every two women over 50 will have an osteoporosis-related fracture in their lifetime. It is estimated that the direct hospital and nursing home costs of osteoporosis are over $13.8 billion annually, with much of that attributed to the more than 1.5 million osteoporosis-related fractures that occur annually.

The health care services included in the WISEWOMAN program have provided positive results for many women who have participated and ultimately cost-savings for the states that have participated. Expansion of the WISEWOMAN model to additional states and for additional preventive services, such as screening for osteoporosis, should enhance positive results for both the women and states participating in the program.

The National Osteoporosis Foundation is most appreciative of your efforts to promote improved both health and endorse the WISEWOMAN Expansion Act of 2001.

Sincerely,
SANDRA C. RAYMOND,
Executive Director.

Mr. HARKIN. Mr. President, I am pleased to join Senator FRIST today to introduce the ''WISEWOMAN Expansion Act.'' This bill will help thousands of women have access to basic preventive health care they may otherwise not receive. The legislation builds on a successful demonstration program and expands screening services and preventive care for uninsured and low-income women across the nation.

Beginning in 1990, I worked as Chairman of the Labor, Health and Human Services and Education Appropriation Subcommittee to provide the funding for the National Breast and Cervical Cancer Early Detection Program, NBCCEDP, run through the Centers for Disease Control and Prevention. In Iowa alone, the program has successfully served close to 9000 women through 618 provider-based breast and cervical cancer screening sites.

Today, the Centers for Disease Control and Prevention currently run the WISEWOMAN program through the NBCCEDP as a demonstration project. The program has successfully built upon the framework of the NBCCEDP to target other chronic diseases among women, including heart disease, the leading cause of death among women, and osteoporosis. The programs address risk factors such as elevated cholesterol, high blood pressure, obesity and smoking and provide important intervention services.

This demonstration project has been successful. It is now time to expand the program to additional states, and eventually make it nationwide. As the brother of two sisters lost to breast cancer and the father of two daughters, I know first hand the importance of making women's health initiatives a top priority. The first step to fighting a chronic disease like cancer, heart disease or osteoporosis is early detection. All women deserve to benefit from the early detection and prevention made possible by the latest advances in medicine. This bill ensures a place for lower income woman at the health care table.

The majority of Americans associate cardiovascular disease with men, but the American Heart Association estimates that nearly one in two women will die of heart disease or stroke. In fact, cardiovascular diseases kills nearly 50,000 more women each year than men. In my own state of Iowa, cardiovascular disease accounts for 44 percent of all deaths in Iowa. Close to 7,000

women die annually in Iowa from cardiovascular disease. Each year, nearly half-a-million women lose their lives as a result of heart disease and stroke. Sadly, with appropriate screening and interventions, many of these deaths could have been prevented.

Osteoporosis is also a preventable disease and affects one out of every two women over the age of 50. Fortunately, some of the preventive measures women can take to reduce their risk for cardiovascular diseases, such as eating more nutritious foods and exercising, can also reduce their risk for osteoporosis.

Our bill would do the following:

Expand the current WISEWOMAN demonstration project to additional states;

Add flexibility to program language that would allow screenings and other preventive measures for diseases in addition to cardiovascular diseases;

Allow flexibility for the WISEWOMAN program to grow and adapt with the changing needs of individual states and our better understanding of new preventive strategies; and

Ensure continued full collaboration of the WISEWOMAN program with the NBCCEDP; Authorize the CDC to make competitive grants to states to carry out additional preventive health services to the breast and cervical cancer screenings at NBCCEDP programs, such as: screenings for blood pressure, cholesterol, and osteoporosis; health education and counseling; lifestyle interventions to change behavioral risk factors such as smoking, lack of exercise, poor nutrition, and sedentary lifestyle; and appropriate referrals for medical treatment and follow-up services.

In order to be eligible for this program, states are required to already participate in the NBCCEDP and to agree to operate their WISEWOMAN program in collaboration with the NBCCEDP.

This bipartisan legislation has the support of the National Osteoporosis Foundation, the American Heart Association, the American Cancer Society and the Komen Foundation, among others. I urge my colleagues to join us in supporting this critical legislation.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 210. A bill to authorize the integration and consolidation of alcohol and substance abuse programs and services provided by Indian tribal governments, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, I am pleased to be joined today by the Vice Chairman of the Committee on Indian Affairs Senator DANIEL K. INOUYE in introducing the Native American Alcohol and Substance Abuse Program Consolidation Act of 2001. This important legislation will authorize Indian Tribes to consolidate and integrate alcohol, substance abuse prevention and treatment and mental health programs to provide more comprehensive treatment and services to Native Americans across the country.

More often than not, individuals with alcohol and substance abuse problems are also hobbled with mental health problems, and this bill authorizes tribes to make mental health services available as well.

Native Americans have higher rates of alcohol and drug use than any other racial or ethnic group in the United States. Despite previous treatment and preventive efforts, alcoholism and substance abuse continue to be prevalent among Native youth: 82 percent of Native adolescents admitted to having used alcohol, compared with 66 percent of non-Native youth.

Alcohol continues to be an important risk factor associated with the top three killers of Native youngsters—accidents, suicide, and homicide.

Based on 1993 data, the rate of mortality due to alcoholism among Native youth ages 15 to 24 was 5.2 per 100,000, which is 17 times the rate for whites in the same age group.

In a 1994 school-based study, 39 percent of Native high school seniors reported having ''gotten drunk'' and 39 percent of Native kids admitted to using marijuana.

Alcohol and substance abuse also contribute to other social problems including sexually transmitted diseases, child and spousal abuse, poor school achievement and dropout, unemployment, drunk driving and vehicular deaths, mental health problems, hopelessness and suicide.

Alcohol, substance abuse, and mental health program funds are available to tribes from virtually every agency in the federal government including the Departments of Education, Health and Human Services, Housing and Urban Development, Interior, Justice, and Transportation.

To help Tribes slice through the bureaucracy, this bill authorizes Tribal governments and inter-Tribal organizations to: 1, consolidate these programs through a single federal office in the Department of Health and Human Services—Indian Health Services, IHS; and 2, use a single plan to reduce the administrative and bureaucratic processes, resulting in better services to Native Americans.

This bill tries to replicate the success of the widely-hailed ''477 model'' that Tribes have used to effectively coordinate employment training and related services through the Indian Employment Training and Related Services Demonstration Act of 1992, Pub. Law 102–477.

Under the ''477 model,'' and applicant Tribe files a single plan to draw and coordinate resources from the spectrum of federal agencies and administer them through one office. I am hopeful that armed with this creative tool, Tribes can begin to bring an end to the devastation of alcohol and drug abuse in their communities.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Native American Alcohol and Substance Abuse Program Consolidation Act of 2001''.

SEC. 2. STATEMENT OF PURPOSE.

The purposes of this Act are—

(1) to enable Indian tribes to consolidate and integrate alcohol and other substance abuse prevention, diagnosis and treatment programs, and mental health and related programs, to provide unified and more effective and efficient services to Native Americans afflicted with alcohol and other substance abuse problems; and

(2) to recognize that Indian tribes can best determine the goals and methods for establishing and implementing prevention, diagnosis and treatment programs for their communities, consistent with the policy of self-determination.

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—In this Act:

(1) FEDERAL AGENCY.—The term ''Federal agency'' has the meaning given the term ''agency'' in section 551(1) of title 5, United States Code.

(2) INDIAN.—The term ''Indian'' has the meaning given that term in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d)).

(3) INDIAN TRIBE.—The terms ''Indian tribe'' and ''tribe'' have the meaning given the term ''Indian tribe'' in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) and shall include entities as provided for in subsection (b)(2).

(4) SECRETARY.—Except where otherwise provided, the term ''Secretary'' means the Secretary of Health and Human Services.

(5) SUBSTANCE ABUSE.—The term ''substance abuse'' includes the illegal use or abuse of a drug, the abuse of an inhalant, or the abuse of tobacco or related products.

(b) INDIAN TRIBE.—

(1) IN GENERAL.—In any case in which an Indian tribe has authorized another Indian tribe, an inter-tribal consortium, or a tribal organization to plan for or carry out programs, services, functions, or activities (or portions thereof) on its behalf under this Act, the authorized Indian tribe, inter-tribal consortium, or tribal organization shall have the rights and responsibilities of the authorizing Indian tribe (except as otherwise provided in the authorizing resolution or in this Act).

(2) INCLUSION OF OTHER ENTITIES.—In a case described in paragraph (1), the term ''Indian tribe'', as defined in subsection (a)(2), shall include the additional authorized Indian tribe, inter-tribal consortium, or tribal organization.

SEC. 4. INTEGRATION OF SERVICES AUTHORIZED.

The Secretary, in cooperation with the Secretary of Labor, the Secretary of the Interior, the Secretary of Education, the Secretary of Housing and Urban Development, the United States Attorney General, and the Secretary of Transportation, as appropriate, shall, upon the receipt of a plan acceptable to the Secretary that is submitted by an Indian tribe, authorize the tribe to coordinate, in accordance with such plan, its federally funded alcohol and substance abuse and mental health programs in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

SEC. 5. PROGRAMS AFFECTED.

The programs that may be integrated in a demonstration project under any plan referred to in section 4 shall include—

(1) any program under which an Indian tribe is eligible for the receipt of funds under a statutory or administrative formula for the purposes of prevention, diagnosis, or treatment of alcohol and other substance abuse problems and disorders, or mental health problems and disorders, or any program designed to enhance the ability to treat, diagnose, or prevent alcohol and other substance abuse and related problems and disorders, or mental health problems or disorders;

(2) any program under which an Indian tribe is eligible for receipt of funds though a competitive or other grant program for the purposes of prevention, diagnosis, or treatment of alcohol and other substance abuse problems and disorders, or mental health problems and disorders, or treatment, diagnosis, or prevention of related problems and disorders, or any program designed to enhance the ability to treat, diagnose, or prevent alcohol and other substance abuse and related problems and disorders, or mental health problems or disorders, if—

(A) the Indian tribe has provided notice to the appropriate agency regarding the intentions of the tribe to include the grant program in the plan it submits to the Secretary, and the affected agency has consented to the inclusion of the grant in the plan; or

(B) the Indian tribe has elected to include the grant program in its plan, and the administrative requirements contained in the plan are essentially the same as the administrative requirements under the grant program; and

(3) any program under which an Indian tribe is eligible for receipt of funds under any other funding scheme for the purposes of prevention, diagnosis, or treatment of alcohol and other substance abuse problems and disorders, or mental health problems and disorders, or treatment, diagnosis, or prevention of related problems and disorders, or any program designed to enhance the ability to treat, diagnose, or prevent alcohol and other substance abuse and related problems and disorders, or mental health problems or disorders.

SEC. 6. PLAN REQUIREMENTS.

For a plan to be acceptable under section 4, the plan shall—

(1) identify the programs to be integrated;

(2) be consistent with the purposes of this Act authorizing the services to be integrated into the project;

(3) describe a comprehensive strategy that identifies the full range of existing and potential alcohol and substance abuse and mental health treatment and prevention programs available on and near the tribe's service area;

(4) describe the manner in which services are to be integrated and delivered and the results expected under the plan;

(5) identify the projected expenditures under the plan in a single budget;

(6) identify the agency or agencies in the tribe to be involved in the delivery of the services integrated under the plan;

(7) identify any statutory provisions, regulations, policies, or procedures that the tribe believes need to be waived in order to implement its plan; and

(8) be approved by the governing body of the tribe.

SEC. 7. PLAN REVIEW.

(a) CONSULTATION.—Upon receipt of a plan from an Indian tribe under section 4, the Secretary shall consult with the head of each Federal agency providing funds to be used to implement the plan, and with the tribe submitting the plan.

(b) IDENTIFICATION OF WAIVERS.—The parties consulting on the implementation of the plan under subsection (a) shall identify any waivers of statutory requirements or of Federal agency regulations, policies, or procedures necessary to enable the tribal government to implement its plan.

(c) WAIVERS.—Notwithstanding any other provision of law, the head of the affected Federal agency shall have the authority to waive any statutory requirement, regulation, policy, or procedure promulgated by the Federal agency that has been identified by the tribe or the Federal agency under subsection (b) unless the head of the affected Federal agency determines that such a waiver is inconsistent with the purposes of this Act or with those provisions of the Act that authorizes the program involved which are specifically applicable to Indian programs.

SEC. 8. PLAN APPROVAL.

(a) IN GENERAL.—Not later than 90 days after the receipt by the Secretary of a tribe's plan under section 4, the Secretary shall inform the tribe, in writing, of the Secretary's approval or disapproval of the plan, including any request for a waiver that is made as part of the plan.

(b) DISAPPROVAL.—If a plan is disapproved under subsection (a), the Secretary shall inform the tribal government, in writing, of the reasons for the disapproval and shall give the tribe an opportunity to amend its plan or to petition the Secretary to reconsider such disapproval, including reconsidering the disapproval of any waiver requested by the Indian tribe.

SEC. 9. FEDERAL RESPONSIBILITIES.

(a) RESPONSIBILITIES OF THE INDIAN HEALTH SERVICE.—

(1) MEMORANDUM OF UNDERSTANDING.—Not later than 180 days after the date of enactment of this Act, the Secretary, the Secretary of the Interior, the Secretary of Labor, the Secretary of Education, the Secretary of Housing and Urban Development, the United States Attorney General, and the Secretary of Transportation shall enter into an interdepartmental memorandum of agreement providing for the implementation of the plans authorized under this Act.

(2) LEAD AGENCY.—The lead agency under this Act shall be the Indian Health Service.

(3) RESPONSIBILITIES.—The responsibilities of the lead agency under this Act shall include—

(A) the development of a single reporting format related to the plan for the individual project which shall be used by a tribe to report on the activities carried out under the plan;

(B) the development of a single reporting format related to the projected expenditures for the individual plan which shall be used by a tribe to report on all plan expenditures;

(C) the development of a single system of Federal oversight for the plan, which shall be implemented by the lead agency;

(D) the provision of technical assistance to a tribe appropriate to the plan, delivered under an arrangement subject to the approval of the tribe participating in the project, except that a tribe shall have the authority to accept or reject the plan for providing the technical assistance and the technical assistance provider; and

(E) the convening by an appropriate official of the lead agency (whose appointment is subject to the confirmation of the Senate) and a representative of the Indian tribes that carry out projects under this Act, in consultation with each of the Indian tribes that participate in projects under this Act, of a meeting not less than 2 times during each fiscal year for the purpose of providing an opportunity for all Indian tribes that carry out projects under this Act to discuss issues relating to the implementation of this Act with officials of each agency specified in paragraph (1).

(b) REPORT REQUIREMENTS.—The single reporting format shall be developed by the Secretary under subsection (a)(3), consistent with the requirements of this Act. Such reporting format, together with records maintained on the consolidated program at the tribal level shall contain such information as will—

(1) allow a determination that the tribe has complied with the requirements incorporated in its approved plan; and

(2) provide assurances to the Secretary that the tribe has complied with all directly applicable statutory requirements and with those directly applicable regulatory requirements which have not been waived.

SEC. 10. NO REDUCTION IN AMOUNTS.

In no case shall the amount of Federal funds available to a participating tribe involved in any project be reduced as a result of the enactment of this Act.

SEC. 11. INTERAGENCY FUND TRANSFERS AUTHORIZED.

The Secretary, the Secretary of the Interior, the Secretary of Labor, the Secretary of Education, the Secretary of Housing and Urban Development, the United States Attorney General, or the Secretary of Transportation, as appropriate, is authorized to take such action as may be necessary to provide for the interagency transfer of funds otherwise available to a tribe in order to further the purposes of this Act.

SEC. 12. ADMINISTRATION OF FUNDS AND OVERAGE.

(a) ADMINISTRATION OF FUNDS.—

(1) IN GENERAL.—Program funds shall be administered under this Act in such a manner as to allow for a determination that funds from specific programs (or an amount equal to the amount utilized from each program) are expended on activities authorized under such program.

(2) SEPARATE RECORDS NOT REQUIRED.—Nothing in this section shall be construed as requiring a tribe to maintain separate records tracing any services or activities conducted under its approved plan under section 4 to the individual programs under which funds were authorized, nor shall the tribe be required to allocate expenditures among individual programs.

(b) OVERAGE.—All administrative costs under a plan under this Act may be commingled, and participating Indian tribes shall be entitled to the full amount of such costs (under each program or department's regulations), and no overage shall be counted for

Federal audit purposes so long as the overage is used for the purposes provided for under this Act.

SEC. 13. FISCAL ACCOUNTABILITY.

Nothing in this Act shall be construed to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to chapter 75 of title 31, United States Code.

SEC. 14. REPORT ON STATUTORY AND OTHER BARRIERS TO INTEGRATION.

(a) PRELIMINARY REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives on the implementation of the program authorized under this Act.

(b) FINAL REPORT.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives on the results of the implementation of the program authorized under this Act. The report shall identify statutory barriers to the ability of tribes to integrate more effectively their alcohol and substance abuse services in a manner consistent with the purposes of this Act.

SEC. 15. ASSIGNMENT OF FEDERAL PERSONNEL TO STATE INDIAN ALCOHOL AND DRUG TREATMENT OR MENTAL HEALTH PROGRAMS.

Any State with an alcohol and substance abuse or mental health program targeted to Indian tribes shall be eligible to receive, at no cost to the State, such Federal personnel assignments as the Secretary, in accordance with the applicable provisions of subchapter IV of chapter 33 of title 5, United States Code, may deem appropriate to help insure the success of such program.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 211. A bill to amend the Education Amendments of 1978 and the Tribally Controlled Schools Act of 1988 to improve education for Indians, Native Hawaiians, and Alaskan Natives; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, I am pleased today to be joined by the Vice Chairman of the Committee on Indian Affairs, Senator DANIEL K. INOUYE, in introducing legislation to improve the education delivery systems in Indian schools so that the President's goal that ''no child be left behind'' is as true for Native youngsters as for all Americans.

Grounded in the Constitution, treaties, federal statutes and court decisions, the United States has a unique role in the education of Native people. This is especially true for the Bureau of Indian Affairs school system for schools on or near reservations built and designed by the federal government. The only other school system in which the federal role is so significant is with Department of Defense schools for the children of those serving our nation in the armed forces.

As a youngster from a troubled background and a former teacher myself, I firmly believe that more than ever a quality education holds the key to a brighter and more hopeful future. I also know that the life-blood of Native people and the best chance they have for improving the lives of all their members lies in a well-educated community. In short, I believe community development starts with individual development and education is the key.

Like President Bush, I believe that education reform stands at the top of our national agenda. Education reform in Indian country is critical if this nation's Native people are to make the kind of advancement that is so clearly needed.

The geography of much of Indian country is difficult: from wintry Alaska, to the windswept Plains, to the searing heat of the Southwest, the terrain often makes it hard to get to school, let alone do well in school. I believe this reality must be acknowledged as we work to improve Native school systems.

Members of the Committee on Indian Affairs know all too well that the conditions in many, if not most, Indian schools is appalling: crumbling facilities, asbestos and PCBs, lead paint, lack of heat and other problems combine to make the schools nearly uninhabitable. Most members, indeed most Americans, would probably pull their children from school if they were subjected to these conditions.

We made a solid start at facilities replacement and repair with the Fiscal Year 2001 Interior appropriations bill which provided nearly $300 million in funds for these purposes.

Nevertheless, the backlog in school construction needs is still in the $800 to 900 million range.

I am very encouraged by President Bush's plan to establish an Indian tribal school capital improvement fund of more than $900 million to rectify the facilities crisis.

The bill I am introducing today, the Native American Educational Improvement Act of 2001, will improve education for Native people in a variety of ways.

Title I of the bill will amend the Education Amendments of 1978 in several respects. This legislation was enacted to provide a comprehensive structure for the BIA funded schools system including grant, contract and BIA operated schools.

The bill addresses most aspects of the BIA school system including standards and accreditation, facilities and various funding issues. It also provides guidance for how funding should be allocated by establishing a formula to effect a more equitable distribution of funds. The formula is based on weighted student units with extra weight given for such things as disabilities of gifted and talented abilities.

In keeping with the policy of Indian Self Determination, the bill carves out a key role for Indian Tribes by requiring that actions undertaken pursuant to the Act be done in consultation with the Tribes. This emphasis on maximizing local, Indian involvement is witnessed in the bill in several respects including the use of negotiated rulemaking in proposing and developing regulations to carry out the Act.

There is no single federal policy more successful than the contracting and compacting opportunities provided by the Indian Self Determination and Education Assistance Act of 1975, as amended.

Tribes and Tribal consortia have demonstrated that when they are provided the resources and flexibility to design and implement programs and services formerly provided by the Federal government, good things happen: 1, the quality of those services is refined; 2, the Tribe or consortium enhances its administrative and managerial abilities; and 3, federal resources are used more efficiently and effectively.

In keeping with this pattern, the bill authorizes Tribal contractors to perform all functions that are not inherently federal.

The bill will unshackle local authorities from the constraints of centralized management by authorizing Tribes to waive BIA school standards and design and implement standards that will better meet the needs of that Tribe's students.

Standards, flexibility and accreditation are important aspects of any good school system, but so is a sufficient pool of resources.

This bill will help evaluate whether funding levels for BIA schools are sufficient and seeks a review by the General Accounting Office to that effect.

While the core purpose of the Act is to provide a blueprint for the BIA school system, the bill I introduce today incorporates Tribal departments of education as well as early childhood development programs that provide services to meet the needs of parents and children under age six.

Title II of the bill amends the Tribally Controlled Schools Act of 1988, TCSA, by expanding the opportunities for Tribal operation of schools that would otherwise be run by the BIA.

Passage of the TCSA in 1988 grew out of dissatisfaction with the method of contracting educational services under the Indian Self Determination and Education Assistance Act, P.L. 93–638, ISDEAA.

While many services were being successfully contracted by Tribes under ISDEAA, education continued to be plagued with problems and Tribes were looking for an alternative to contracts.

The bill I am introducing today is grounded in the concept of ''lump-sum'' financing to Indian Tribes. This approach is intended to address some of the problems faced by ISDEAA contractors. That is, if a Tribe wants to

operate a school pursuant to contract, it would be forced to negotiate a separate contract for each of the various school functions. A separate contract was required for transportation, for programs, for operations and maintenance, and other functions. This bill will consolidate these and other functions into one contract.

The grant schools operated by Tribes are provided considerable latitude in managing their finances provided that four specific requirements are met: As long as a grant school 1, submits an annual program report; 2, submits an evaluation report; 3, is accredited; and 4, adheres to the federal Single Audit Act, then that school may continue to enjoy the flexibility afforded it under P.L. 100–297.

Last, to ensure that Tribal initiative and creativity are not thwarted unnecessarily, this bill prohibits regulations from being established unless specifically authorized.

I have highlighted but a few of the major provisions included in this bill and I urge my colleagues to join me in supporting this important initiative. I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 211

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Native American Education Improvement Act of 2001''.

TITLE I—AMENDMENTS TO THE EDUCATION AMENDMENTS OF 1978

SEC. 101. AMENDMENTS TO THE EDUCATION AMENDMENTS OF 1978.

Part B of title XI of the Education Amendments of 1978 (25 U.S.C. 2001 et seq.) is amended to read as follows:

''PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

''SEC. 1120. FINDING AND POLICY.

''(a) FINDING.—Congress finds and recognizes that—

''(1) the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people includes the education of Indian children; and

''(2) the Federal Government has the responsibility for the operation and financial support of the Bureau of Indian Affairs funded school system that the Federal Government has established on or near reservations and Indian trust lands throughout the Nation for Indian children.

''(b) POLICY.—It is the policy of the United States to work in full cooperation with tribes toward the goal of assuring that the programs of the Bureau of Indian Affairs funded school system are of the highest quality and provide for the basic elementary and secondary educational needs of Indian children, including meeting the unique educational and cultural needs of these children.

''SEC. 1121. ACCREDITATION AND STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS.

''(a) PURPOSE; DECLARATIONS OF PURPOSE.—

''(1) PURPOSE.—The purpose of the standards implemented under this section shall be to ensure that Indian students being served by a school funded by the Bureau of Indian Affairs are provided with educational opportunities that equal or exceed those for all other students in the United States.

''(2) DECLARATIONS OF PURPOSE.—

''(A) IN GENERAL.—Local school boards for schools operated by the Bureau of Indian Affairs, in cooperation and consultation with the appropriate tribal governing bodies and their communities, are encouraged to adopt declarations of purpose for education for their communities, taking into account the implications of such declarations on education in their communities and for their schools. In adopting such declarations of purpose, the school boards shall consider the effect the declarations may have on the motivation of students and faculties.

''(B) CONTENTS.—A declaration of purpose for a community shall—

''(i) represent the aspirations of the community for the kinds of people the community would like the community's children to become; and

''(ii) contain an expression of the community's desires that all students in the community shall—

''(I) become accomplished in things and ways important to the students and respected by their parents and community;

''(II) shape worthwhile and satisfying lives for themselves;

''(III) exemplify the best values of the community and humankind; and

''(IV) become increasingly effective in shaping the character and quality of the world all students share.

''(C) STANDARDS.—The declarations of purpose shall influence the standards for accreditation to be accepted by the schools.

''(b) STUDIES AND SURVEYS RELATING TO STANDARDS.—Not later than 1 year after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary, in consultation with the Secretary of Education, consortia of education organizations, and Indian organizations and tribes, and making the fullest use possible of other existing studies, surveys, and plans, shall carry out, by contract with an Indian organization, studies and surveys to establish and revise standards for the basic education of Indian children attending Bureau funded schools. Such studies and surveys shall take into account factors such as academic needs, local cultural differences, type and level of language skills, geographic isolation, and appropriate teacher-student ratios for such children, and shall be directed toward the attainment of equal educational opportunity for such children.

''(c) REVISION OF MINIMUM ACADEMIC STANDARDS.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary shall—

''(A) propose revisions to the minimum academic standards contained in part 36 of title 25, Code of Federal Regulations (on the date of enactment of the Native American Education Improvement Act of 2001) for the basic education of Indian children attending Bureau funded schools, in accordance with the purpose described in subsection (a) and the findings of the studies and surveys carried out under subsection (b);

''(B) publish such proposed revisions to such standards in the Federal Register for the purpose of receiving comments from the tribes, local school boards, Bureau funded schools, and other interested parties; and

''(C) consistent with the provisions of this section and section 1130, take such actions as are necessary to coordinate standards implemented under this section with—

''(i) the Comprehensive School Reform Plan developed by the Bureau; and

''(ii)(I) the standards of the State in which any Bureau funded school is located; or

''(II) in a case where schools operated by the Bureau are within the boundaries of the reservation land of 1 tribe but within the boundaries of more than 1 State, the standards of the State selected by the tribe.

''(2) FINAL STANDARDS.—Not later than 6 months after the close of the comment period for comments described in paragraph (1)(B), the Secretary shall establish final standards under this subsection, distribute such standards to all tribes, and publish such standards in the Federal Register.

''(3) FURTHER REVISIONS.—The Secretary shall revise standards under this subsection periodically as necessary. Prior to making any revisions of such standards, the Secretary shall distribute proposed revisions of the standards to all the tribes, and publish such proposed revisions in the Federal Register, for the purpose of receiving comments from the tribes and other interested parties.

''(4) APPLICABILITY OF STANDARDS.—Except as provided in subsection (e), the final standards published under this subsection shall apply to all Bureau funded schools not accredited under subsection (f), and may also serve as model standards for educational programs for Indian children in public schools.

''(5) CONSIDERATIONS WHEN ESTABLISHING AND REVISING STANDARDS.—In establishing and revising standards under this subsection, the Secretary shall take into account the unique needs of Indian students and support and reinforce the specific cultural heritage of each tribe.

''(d) ALTERNATIVE OR MODIFIED STANDARDS.—With respect to a school that is located in a State or region with standards that are in conflict with the standards established under subsection (c), the Secretary shall provide alternative or modified standards in lieu of the standards established under such subsection so that the programs of such school are in compliance with the minimum accreditation standards required for schools in the State or region where the school is located.

''(e) WAIVER OF STANDARDS; ALTERNATIVE STANDARDS.—

''(1) WAIVER.—A tribal governing body, or the local school board so designated by the tribal governing body, shall have the local authority to waive, in part or in whole, the standards established under subsection (c) and (d) if such standards are determined by such body or board to be inappropriate for the needs of students from that tribe.

''(2) ALTERNATIVE STANDARDS.—The tribal governing body or school board involved shall, not later than 60 days after providing a waiver under paragraph (1) for a school, submit to the Director a proposal for alternative standards that take into account the specific needs of the tribe's children. Such alternative standards shall be established by the Director for the school involved unless specifically rejected by the Director for good cause and in writing provided to the affected tribes or local school board.

''(f) ACCREDITATION AND IMPLEMENTATION OF STANDARDS.—

''(1) DEADLINE.—Not later than the second academic year after publication of final standards established under subsection (c) or (d), or after the approval of alternative standards under subsection (e), to the extent

necessary funding is provided, each Bureau funded school to which such standards would apply shall meet the applicable standards or be accredited—

''(A) by a tribal accrediting body that has been accepted by formal action of the appropriate tribal governing body;

''(B) by a regional accreditation agency;

''(C) in accordance with State accreditation standards for the State in which the school is located; or

''(D) in the case of a school that is located on a reservation that is located in more than 1 State, in accordance with the State accreditation standards of 1 State as selected by the tribal government.

''(2) DETERMINATION OF STANDARDS TO BE APPLIED.—The accreditation type or standards applied for each school shall be determined by the school board of the school, in consultation with the Administrator of the school, provided that in the case where the School Board and the Administrator fail to agree on the type of accreditation and standards to apply, the decision of the school board with the approval of the tribal governing body shall be final.

''(3) ASSISTANCE TO SCHOOL BOARDS.—The Secretary, through contracts and grants, shall assist school boards of contract or grant schools in implementing standards established under subsections (c), (d), and (e), if the school boards request that such standards, in part or in whole, be implemented.

''(4) FISCAL CONTROL AND FUND ACCOUNTING STANDARDS.—The Bureau shall, either directly or through a contract with an Indian organization, establish a consistent system of reporting standards for fiscal control and fund accounting for all contract and grant schools. Such standards shall yield data results comparable to the data provided by Bureau schools.

''(g) ANNUAL PLAN FOR MEETING OF STANDARDS.—

''(1) IN GENERAL.—Except as provided in subsections (e) and (f), the Secretary shall begin to implement the standards established under this section on the date of their establishment.

''(2) PLAN.—On an annual basis, the Secretary shall submit to the appropriate committees of Congress, all Bureau funded schools, and the tribal governing bodies of such schools a detailed plan to bring all Bureau funded schools up to the level required by the applicable standards established under this section. Such plan shall include detailed information on the status of each school's educational program in relation to the applicable standards established under this section, specific cost estimates for meeting such standards at each school, and specific timelines for bringing each school up to the level required by such standards.

''(h) CLOSURE OR CONSOLIDATION OF SCHOOLS.—

''(1) IN GENERAL.—Except as specifically required by law, no Bureau funded school or dormitory operated on or after January 1, 1992, may be closed, consolidated, or transferred to another authority and no program of such a school may be substantially curtailed except in accordance with the requirements of this subsection.

''(2) EXCEPTIONS.—This subsection (other than this paragraph) shall not apply—

''(A) in those cases in which the tribal governing body for a school, or the local school board concerned (if designated by the tribal governing body to act under this paragraph), requests the closure, consolidation, or substantial curtailment; or

''(B) if a temporary closure, consolidation, or substantial curtailment is required by facility conditions that constitute an immediate hazard to health and safety.

''(3) REGULATIONS.—The Secretary shall, by regulation, promulgate standards and procedures for the closure, transfer to another authority, consolidation, or substantial curtailment of school programs of Bureau schools, in accordance with the requirements of this subsection.

''(4) NOTIFICATION.—

''(A) CONSIDERATION.—Whenever closure, transfer to another authority, consolidation, or substantial curtailment of a school program of a Bureau school is under active consideration or review by any division of the Bureau or the Department of the Interior, the head of the division or the Secretary shall ensure that the affected tribe, tribal governing body, and local school board, are notified (in writing) immediately, kept fully and currently informed, and afforded an opportunity to comment with respect to such consideration or review.

''(B) FORMAL DECISION.—When the head of any division of the Bureau or the Secretary makes a formal decision to close, transfer to another authority, consolidate, or substantially curtail a school program of a Bureau school, the head of the division or the Secretary shall notify (in writing) the affected tribes, tribal governing body, and local school board at least 6 months prior to the end of the academic year preceding the date of the proposed action.

''(C) COPIES OF NOTIFICATIONS AND INFORMATION.—The Secretary shall transmit copies of the notifications described in this paragraph promptly to the appropriate committees of Congress and publish such notifications copies in the Federal Register.

''(5) REPORT.—

''(A) IN GENERAL.—The Secretary shall submit a report to the appropriate committees of Congress, the affected tribal governing body and the designated local school board, describing the process of the active consideration or review referred to in paragraph (4).

''(B) CONTENTS.—The report shall include the results of a study of the impact of the action under consideration or review on the student population of the school involved, identify those students at the school with particular educational and social needs, and ensure that alternative services are available to such students. Such report shall include a description of consultation conducted between the potential service provider and current service provider of such services, parents, tribal representatives, the tribe involved, and the Director of the Office regarding such students.

''(6) LIMITATION ON CERTAIN ACTIONS.—No irreversible action may be taken to further any proposed school closure, transfer to another authority, consolidation, or substantial curtailment described in this subsection concerning a school (including any action that would prejudice the personnel or programs of such school) prior to the end of the first full academic year after the report described in paragraph (5) is submitted.

''(7) TRIBAL GOVERNING BODY APPROVAL REQUIRED FOR CERTAIN ACTIONS.—The Secretary may terminate, contract, transfer to any other authority, consolidate, or substantially curtail the operation or facilities of—

''(A) any Bureau funded school that is operated on or after January 1, 1999;

''(B) any program of such a school that is operated on or after January 1, 1999; or

''(C) any school board of a school operated under a grant under the Tribally Controlled Schools Act of 1988,

only if the tribal governing body for the school involved approves such action.

''(i) APPLICATION FOR CONTRACTS OR GRANTS FOR NON-BUREAU FUNDED SCHOOLS OR EXPANSION OF BUREAU FUNDED SCHOOLS.—

''(1) IN GENERAL.—

''(A) APPLICATIONS.—

''(i) TRIBES; SCHOOL BOARDS.—The Secretary shall only consider the factors described in subparagraph (B) in reviewing—

''(I) applications from any tribe for the awarding of a contract or grant for a school that is not a Bureau funded school; and

''(II) applications from any tribe or school board associated with any Bureau funded school for the awarding of a contract or grant for the expansion of a Bureau funded school that would increase the amount of funds received by the tribe or school board under section 1126.

''(ii) LIMITATION.—With respect to applications described in this subparagraph, the Secretary shall give consideration to all the factors described in subparagraph (B), but no such application shall be denied based primarily upon the geographic proximity of comparable public education.

''(B) FACTORS.—With respect to applications described in subparagraph (A) the Secretary shall consider the following factors relating to the program and services that are the subject of the application:

''(i) The adequacy of existing facilities to support the proposed program and services or the applicant's ability to obtain or provide adequate facilities.

''(ii) Geographic and demographic factors in the affected areas.

''(iii) The adequacy of the applicant's program plans or, in the case of a Bureau funded school, of a projected needs analysis conducted either by the tribe or the Bureau.

''(iv) Geographic proximity of comparable public education.

''(v) The stated needs of all affected parties, including students, families, tribal governing bodies at both the central and local levels, and school organizations.

''(vi) Adequacy and comparability of programs and services already available.

''(vii) Consistency of the proposed program and services with tribal educational codes or tribal legislation on education.

''(viii) The history and success of these services for the proposed population to be served, as determined from all factors, including standardized examination performance.

''(2) DETERMINATION ON APPLICATION.—

''(A) PERIOD.—The Secretary shall make a determination concerning whether to approve any application described in paragraph (1)(A) not later than 180 days after the date such application is submitted to the Secretary.

''(B) FAILURE TO MAKE DETERMINATION.—If the Secretary fails to make the determination with respect to an application by the date described in subparagraph (A), the application shall be treated as having been approved by the Secretary.

''(3) REQUIREMENTS FOR APPLICATIONS.—

''(A) APPROVAL.—Notwithstanding paragraph (2)(B), an application described in paragraph (1)(A) may be approved by the Secretary only if—

''(i) the application has been approved by the tribal governing body of the students served by (or to be served by) the school or program that is the subject of the application; and

''(ii) the tribe or designated school board involved submits written evidence of such approval with the application.

''(B) INFORMATION.—Each application described in paragraph (1)(A) shall contain information discussing each of the factors described in paragraph (1)(B).

''(4) DENIAL OF APPLICATIONS.—If the Secretary denies an application described in paragraph (1)(A), the Secretary shall—

''(A) state the objections to the application in writing to the applicant not later than 180 days after the date the application is submitted to the Secretary;

''(B) provide assistance to the applicant to overcome the stated objections;

''(C) provide to the applicant a hearing on the record regarding the denial, under the same rules and regulations as apply under the Indian Self-Determination and Education Assistance Act; and

''(D) provide to the applicant a notice of the applicant's appeals rights and an opportunity to appeal the decision resulting from the hearing under subparagraph (D).

''(5) EFFECTIVE DATE OF A SUBJECT APPLICATION.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the action that is the subject of any application described in paragraph (1)(A) that is approved by the Secretary shall become effective—

''(i) on the first day of the academic year following the fiscal year in which the application is approved; or

''(ii) on an earlier date determined by the Secretary.

''(B) APPLICATION TREATED AS APPROVED.—If an application is treated as having been approved by the Secretary under paragraph (2)(B), the action that is the subject of the application shall become effective?—

''(i) on the date that is 18 months after the date on which the application is submitted to the Secretary; or

''(ii) on an earlier date determined by the Secretary.

''(6) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to preclude the expansion of grades and related facilities at a Bureau funded school, if such expansion is paid for with non-Bureau funds.

''(j) JOINT ADMINISTRATION.—Funds received by Bureau funded schools from the Bureau of Indian Affairs and under any program from the Department of Education or any other Federal agency for the purpose of providing education or related services, and other funds received for such education and related services from non-Federally funded programs, may apportion joint administrative, transportation, and program costs between such programs and the funds shall be retained at the school.

''(k) GENERAL USE OF FUNDS.—Funds received by Bureau funded schools from the Bureau of Indian Affairs and under any program from the Department of Education or any other Federal agency for the purpose of providing education or related services may be used for schoolwide projects to improve the educational program of the schools for all Indian students.

''(l) STUDY ON ADEQUACY OF FUNDS AND FORMULAS.—

''(1) STUDY.—The Comptroller General of the United States shall conduct a study, in consultation with tribes and local school boards, to determine the adequacy of funding, and formulas used by the Bureau to determine funding, for programs operated by Bureau funded schools, taking into account unique circumstances applicable to Bureau funded schools, including isolation, limited English proficiency of Indian students, the costs of educating disabled Indian students in isolated settings, and other factors that may disproportionately increase per-pupil costs, as well as expenditures for comparable purposes in public schools nationally.

''(2) FINDINGS.—On completion of the study under paragraph (1), the Secretary shall take such action as may be necessary to ensure distribution of the findings of the study to the appropriate authorizing and appropriating committees of Congress, all affected tribes, local school boards, and associations of local school boards.

''SEC. 1122. NATIONAL STANDARDS FOR HOME LIVING SITUATIONS.

''(a) IN GENERAL.—The Secretary, in accordance with section 1137, shall revise the national standards for home-living (dormitory) situations to include such factors as heating, lighting, cooling, adult-child ratios, need for counselors (including special needs related to off-reservation home-living (dormitory) situations), therapeutic programs, space, and privacy. Such standards shall be implemented in Bureau schools. Any subsequent revisions shall also be in accordance with such section 1137.

''(b) IMPLEMENTATION.—The Secretary shall implement the revised standards established under this section immediately upon their issuance.

''(c) PLAN.—

''(1) IN GENERAL.—Upon the submission of each annual budget request for Bureau educational services (as contained in the President's annual budget request under section 1105 of title 31, United States Code), the Secretary shall submit to the appropriate committees of Congress, the tribes, and the affected schools, and publish in the Federal Register, a detailed plan to bring all Bureau funded schools that have dormitories or provide home-living (dormitory) situations into compliance with the standards established under this section.

''(2) CONTENTS.—Each plan under paragraph (1) shall include—

''(A) a statement of the relative needs of each of the home-living schools and projected future needs of each of the home-living schools;

''(B) detailed information on the status of each of the schools in relation to the standards established under this section;

''(C) specific cost estimates for meeting each standard for each such school;

''(D) aggregate cost estimates for bringing all such schools into compliance with the standards established under this section; and

''(E) specific timelines for bringing each school into compliance with such standards.

''(d) WAIVER.—A tribal governing body or local school board may, in accordance with section 1121(e), waive the standards established under this section for a school described in subsection (a) in the same manner as the governing body or school board may waive the standards provided under section 1121(c) for a Bureau funded school.

''(e) CLOSURE FOR FAILURE TO MEET STANDARDS PROHIBITED.—No school in operation on or before July 1, 1999 (regardless of compliance or noncompliance with the standards established under this section), may be closed, transferred to another authority, or consolidated, and no program of such a school may be substantially curtailed, because the school failed to meet such standards.

''SEC. 1123. SCHOOL BOUNDARIES.

''(a) ESTABLISHMENT BY SECRETARY.—Except as described in subsection (b), the Secretary shall establish, by regulation, separate geographical attendance areas for each Bureau funded school.

''(b) ESTABLISHMENT BY TRIBAL BODY.—In any case in which there is more than 1 Bureau funded school located on a reservation of a tribe, at the direction of the tribal governing body, the relevant school boards of the Bureau funded schools on the reservation may, by mutual consent, establish the boundaries of the relevant geographical attendance areas for such schools, subject to the approval of the tribal governing body. Any such boundaries so established shall be accepted by the Secretary.

''(c) BOUNDARY REVISIONS.—

''(1) IN GENERAL.—Effective on July 1, 1999, the Secretary may not establish or revise boundaries of a geographical attendance area with respect to any Bureau funded school unless the tribal governing body concerned or the school board concerned (if designated by the tribal governing body to act under this paragraph) has been afforded—

''(A) at least 6 months notice of the intention of the Secretary to establish or revise such boundaries; and

''(B) the opportunity to propose alternative boundaries.

''(2) PETITIONS.—Any tribe may submit a petition to the Secretary requesting a revision of the geographical attendance area boundaries referred to in paragraph (1).

''(3) BOUNDARIES.—The Secretary shall accept proposed alternative boundaries described in paragraph (1)(B) or revised boundaries described in a petition submitted under paragraph (2) unless the Secretary finds, after consultation with the affected tribe, that such alternative or revised boundaries do not reflect the needs of the Indian students to be served or do not provide adequate stability to all of the affected programs. On accepting the boundaries, the Secretary shall publish information describing the boundaries in the Federal Register.

''(4) TRIBAL RESOLUTION DETERMINATION.—Nothing in this section shall be interpreted as denying a tribal governing body the authority, on a continuing basis, to adopt a tribal resolution allowing parents a choice of the Bureau funded school their child may attend, regardless of the geographical attendance area boundaries established under this section.

''(d) FUNDING RESTRICTIONS.—The Secretary shall not deny funding to a Bureau funded school for any eligible Indian student attending the school solely because that student's home or domicile is outside of the boundaries of the geographical attendance area established for that school under this section. No funding shall be made available for transportation without tribal authorization to enable the school to provide transportation for any student to or from the school and a location outside the approved attendance area of the school.

''(e) RESERVATION AS BOUNDARY.—In any case in which there is only 1 Bureau funded school located on a reservation, the boundaries of the geographical attendance area for the school shall be the boundaries (as established by treaty, agreement, legislation, court decision, or executive decision and as accepted by the tribe involved) of the reservation served, and those students residing near the reservation shall also receive services from such school.

''(f) OFF-RESERVATION HOME-LIVING SCHOOLS.—Notwithstanding the boundaries of the geographical attendance areas established under this section, each Bureau funded school that is an off-reservation home-living school shall implement special emphasis programs and permit the attendance of students requiring the programs. The programs provided for such students shall be coordinated among education line officers, the

families of the students, the schools, and the entities operating programs that referred the students to the schools.

"SEC. 1124. FACILITIES CONSTRUCTION.

''(a) NATIONAL SURVEY OF FACILITIES CONDITIONS.—

''(1) IN GENERAL.—Not later than 12 months after the date of enactment of the Native American Education Improvement Act of 2001, the General Accounting Office shall compile, collect, and secure the data that is needed to prepare a national survey of the physical conditions of all Bureau funded school facilities.

''(2) DATA AND METHODOLOGIES.—In preparing the national survey required under paragraph (1), the General Accounting Office shall use the following data and methodologies:

''(A) The existing Department of Defense formula for determining the condition and adequacy of Department of Defense facilities.

''(B) Data related to conditions of Bureau funded schools that has previously been compiled, collected, or secured from whatever source derived so long as the data is relevant, timely, and necessary to the survey.

''(C) The methodologies of the American Institute of Architects, or other accredited and reputable architecture or engineering associations.

''(3) CONSULTATIONS.—

''(A) IN GENERAL.—In carrying out the survey required under paragraph (1), the General Accounting Office shall, to the maximum extent practicable, consult (and if necessary contract) with national, regional, and tribal Indian education organizations to ensure that a complete and accurate national survey is achieved.

''(B) REQUESTS FOR INFORMATION.—All Bureau funded schools shall comply with reasonable requests for information by the General Accounting Office and shall respond to such requests in a timely fashion.

''(4) SUBMISSION TO CONGRESS.—Not later than 24 months after the date of enactment of the Native American Education Improvement Act of 2001, the General Accounting Office shall submit the results of the national survey conducted under paragraph (1) to the Committee on Indian Affairs and Committee on Appropriations of the Senate, and the Committee on Resources and Committee on Appropriations of the House.

''(5) NEGOTIATED RULEMAKING COMMITTEE.—

''(A) IN GENERAL.—Not later than 6 months after the date on which the submission is made under paragraph (4), the Secretary shall establish a negotiated rule making committee pursuant to section 1137(c). The negotiated rulemaking committee shall prepare and submit to the Secretary the following:

''(i) A catalogue of the condition of school facilities at all Bureau funded schools that—

''(I) rates such facilities with respect to the rate of deterioration and useful life structures and major systems;

''(II) establishes a routine maintenance schedule for each facility; and

''(III) makes projections on the amount of funds needed to keep each school viable, consistent with the standards of this Act.

''(ii) A school replacement and new construction report that determines replacement and new construction need, and a formula for the equitable distribution of funds to address such need, for Bureau funded schools. Such formula shall utilize necessary factors in determining an equitable distribution of funds, including—

''(I) the size of school;

''(II) school enrollment;

''(III) the age of the school;

''(IV) the condition of the school;

''(V) environmental factors at the school; and

''(VI) school isolation.

''(iii) A renovation repairs report that determines renovation need (major and minor), and a formula for the equitable distribution of funds to address such need, for Bureau funded schools. Such report shall identify needed repairs or renovations with respect to a facility, or a part of a facility, or the grounds of the facility, to remedy a need based on disabilities access or health and safety changes to a facility. The formula developed shall utilize necessary factors in determining an equitable distribution of funds, including the factors described in subparagraph (B).

''(B) Not later 24 months after the negotiated rulemaking committee is established under subparagraph (A), the reports described in clauses (ii) and (iii) of subparagraph (A) shall be submitted to the committees of Congress referred to in paragraph (4), the national and regional Indian education organizations, and to all Indian tribes.

''(6) FACILITIES INFORMATION SYSTEMS SUPPORT DATABASE.—The Secretary shall develop a Facilities Information Systems Support Database to maintain and update the information contained in the reports under clauses (ii) and (iii) of paragraph (5)(A) and the information contained in the survey conducted under paragraph (1). The system shall be updated every 3 years by the Bureau of Indian Affairs and monitored by General Accounting Office, and shall be made available to Indian tribes, Bureau funded schools, and Congress.

''(b) COMPLIANCE WITH HEALTH AND SAFETY STANDARDS.—The Secretary shall immediately begin to bring all schools, dormitories, and other Indian education-related facilities operated by the Bureau or under contract or grant with the Bureau into compliance with all applicable tribal, Federal, or State health and safety standards, whichever provides greater protection (except that the tribal standards to be applied shall be no greater than any otherwise applicable Federal or State standards), with section 504 of the Rehabilitation Act of 1973, and with the Americans with Disabilities Act of 1990. Nothing in this section shall require termination of the operations of any facility which does not comply with such provisions and which is in use on the date of the enactment of the Native American Education Improvement Act of 2001.

''(c) COMPLIANCE PLAN.—At the time that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all facilities covered under subsection (b) of this section into compliance with the standards referred to in subsection (b). Such plan shall include detailed information on the status of each facility's compliance with such standards, specific cost estimates for meeting such standards at each school, and specific timelines for bringing each school into compliance with such standards.

''(d) CONSTRUCTION PRIORITIES.—

''(1) SYSTEM TO ESTABLISH PRIORITIES.—The Secretary shall annually prepare and submit to the appropriate committees of Congress, and publish in the Federal Register, information describing the system used by the Secretary to establish priorities for replacement and construction projects for Bureau funded schools and home-living schools, including boarding schools, and dormitories. On making each budget request described in subsection (c), the Secretary shall publish in the Federal Register and submit with the budget request a list of all of the Bureau funded school construction priorities, as described in paragraph (2).

''(2) LONG-TERM CONSTRUCTION AND REPLACEMENT LIST.—In addition to submitting the plan described in subsection (c), the Secretary shall—

''(A) not later than 18 months after the date of enactment of the Native American Education Improvement Act of 2001, establish a long-term construction and replacement priority list for all Bureau funded schools;

''(B) using the list prepared under subparagraph (A), propose a list for the orderly replacement of all Bureau funded education-related facilities over a period of 40 years to facilitate planning and scheduling of budget requests;

''(C) publish the list prepared under subparagraph (B) in the Federal Register and allow a period of not less than 120 days for public comment;

''(D) make such revisions to the list prepared under subparagraph (B) as are appropriate based on the comments received; and

''(E) publish a final list in the Federal Register.

''(3) EFFECT ON OTHER LIST.—Nothing in this section shall be construed as interfering with or changing in any way the construction and replacement priority list established by the Secretary, as the list exists on the date of enactment of the Native American Education Improvement Act of 2001.

''(e) HAZARDOUS CONDITION AT BUREAU FUNDED SCHOOL.—

''(1) CLOSURE, CONSOLIDATION, OR CURTAILMENT.—

''(A) IN GENERAL.—A Bureau funded school may be closed or consolidated, and the programs of a Bureau funded school may be substantially curtailed by reason of facility conditions that constitute an immediate hazard to health and safety only if a health and safety officer of the Bureau and an individual designated by the tribe involved under subparagraph (B), determine that such conditions exist at a facility of the Bureau funded school.

''(B) DESIGNATION OF INDIVIDUAL BY TRIBE.—To be designated by a tribe for purposes of subparagraph (A), an individual shall—

''(i) be a licensed or certified facilities safety inspector;

''(ii) have demonstrated experience in the inspection of facilities for health and safety purposes with respect to occupancy; or

''(iii) have a significant educational background in the health and safety of facilities with respect to occupancy.

''(C) INSPECTION.—In making a determination described in subparagraph (A), the Bureau health and safety officer and the individual designated by the tribe shall conduct an inspection of the conditions of such facility in order to determine whether conditions at such facility constitute an immediate hazard to health and safety.

''(D) FAILURE TO CONCUR.—If the Bureau health and safety officer, and the individual designated by the tribe, conducting the inspection of a facility required under subparagraph (A) do not concur that conditions at the facility constitute an immediate hazard to health and safety, such officer and individual shall immediately notify the tribal governing body and provide written information related to their determinations.

''(E) CONSIDERATION BY TRIBAL GOVERNING BODY.—Not later than 10 days after a tribal governing body received notice under subparagraph (D), the tribal governing body shall consider all information related to the determinations of the Bureau health and safety officer and the individual designated by the tribe and make a determination regarding the closure, consolidation, or curtailment involved.

''(F) CESSATION OF CLOSURE, CONSOLIDATION, OR CURTAILMENT.—If the Bureau health and safety officer, and the individual designated by the tribe, conducting the inspection of a facility required under subparagraph (A), concur that conditions at the facility constitute an immediate hazard to health and safety, or if the tribal governing body makes such a determination under subparagraph (E) the facility involved shall be closed immediately.

''(G) GENERAL CLOSURE REPORT.—If a Bureau funded school is temporarily closed or consolidated or the programs of a Bureau funded school are temporarily substantially curtailed under this subsection and the Secretary determines that the closure, consolidation, or curtailment will exceed 1 year, the Secretary shall submit to the appropriate committees of Congress, the affected tribe, and the local school board, not later than 3 months after the date on which the closure, consolidation, or curtailment was initiated, a report that specifies—

''(i) the reasons for such temporary action;

''(ii) the actions the Secretary is taking to eliminate the conditions that constitute the hazard;

''(iii) an estimated date by which the actions described in clause (ii) will be concluded; and

''(iv) a plan for providing alternate education services for students enrolled at the school that is to be closed.

''(2) NONAPPLICATION OF CERTAIN STANDARDS FOR TEMPORARY FACILITY USE.—

''(A) CLASSROOM ACTIVITIES.—The Secretary shall permit the local school board to temporarily utilize facilities adjacent to the school, or satellite facilities, if such facilities are suitable for conducting classroom activities. In permitting the use of facilities under the preceding sentence, the Secretary may waive applicable minor standards under section 1121 relating to such facilities (such as the required number of exit lights or configuration of restrooms) so long as such waivers do not result in the creation of an environment that constitutes an immediate and substantial threat to the health, safety, and life of students and staff.

''(B) ADMINISTRATIVE ACTIVITIES.—The provisions of subparagraph (A) shall apply with respect to administrative personnel if the facilities involved are suitable for activities performed by such personnel.

''(C) TEMPORARY.—In this paragraph, the term 'temporary' means—

''(i) with respect to a school that is to be closed for not more than 1 year, 3 months or less; and

''(ii) with respect to a school that is to be closed for not less than 1 year, a time period determined appropriate by the Bureau.

''(3) TREATMENT OF CLOSURE.—Any closure of a Bureau funded school under this subsection for a period that exceeds 1 month but is less than 1 year, shall be treated by the Bureau as an emergency facility improvement and repair project.

''(4) USE OF FUNDS.—With respect to a Bureau funded school that is closed under this subsection, the tribal governing body, or the designated local school board of each Bureau funded school, involved may authorize the use of school operations funds, which have otherwise been allocated for such school, to abate the hazardous conditions without further action by Congress.

''(f) FUNDING REQUIREMENT.—

''(1) DISTRIBUTION OF FUNDS.—Beginning with the first fiscal year following the date of enactment of the Native American Education Improvement Act of 2001, all funds appropriated to the budget accounts for the operations and maintenance of Bureau funded schools shall be distributed by formula to the schools. No funds from these accounts may be retained or segregated by the Bureau to pay for administrative or other costs of any facilities branch or office, at any level of the Bureau.

''(2) REQUIREMENTS FOR CERTAIN USES.—

''(A) AGREEMENT.—The Secretary shall not withhold funds that would be distributed under paragraph (1) to any grant or contract school, in order to use the funds for maintenance or any other facilities or road-related purposes, unless such school—

''(i) has consented to the withholding of such funds, including the amount of the funds, the purpose for which the funds will be used, and the timeline for the services to be provided with the funds; and

''(ii) has provided the consent by entering into an agreement that is—

''(I) a modification to the contract; and

''(II) in writing (in the case of a school that receives a grant).

''(B) CANCELLATION.—The school may, at the end of any fiscal year, cancel an agreement entered into under this paragraph, on giving the Bureau 30 days notice of the intent of the school to cancel the agreement.

''(g) NO REDUCTION IN FEDERAL FUNDING.—Nothing in this section shall be construed to reduce any Federal funding for a school because the school received funding for facilities improvement or construction from a State or any other source.

''SEC. 1125. BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS.

''(a) FORMULATION AND ESTABLISHMENT OF POLICY AND PROCEDURE; SUPERVISION OF PROGRAMS AND EXPENDITURES.—The Secretary shall vest in the Assistant Secretary for Indian Affairs all functions with respect to formulation and establishment of policy and procedure, and supervision of programs and expenditures of Federal funds for the purpose of Indian education administered by the Bureau. The Assistant Secretary shall carry out such functions through the Director of the Office of Indian Education Programs.

''(b) DIRECTION AND SUPERVISION OF PERSONNEL OPERATIONS.—

''(1) IN GENERAL.—Not later than 6 months after the date of the enactment of the Native American Education Improvement Act of 2001, the Director of the Office shall direct and supervise the operations of all personnel directly and substantially involved in the provision of education services by the Bureau, including school or institution custodial or maintenance personnel, and facilities management, contracting, procurement, and finance personnel.

''(2) TRANSFERS.—The Assistant Secretary for Indian Affairs shall coordinate the transfer of functions relating to procurements for, contracts of, operation of, and maintenance of schools and other support functions to the Director.

''(c) INHERENT FEDERAL FUNCTION.—For purposes of this Act, all functions relating to education that are located at the Area or Agency level and performed by an education line officer shall be subject to contract under the Indian Self-Determination and Education Assistance Act, unless determined by the Secretary to be inherently Federal functions.

''(d) EVALUATION OF PROGRAMS; SERVICES AND SUPPORT FUNCTIONS; TECHNICAL AND COORDINATION ASSISTANCE.—Education personnel who are under the direction and supervision of the Director of the Office in accordance with subsection (b)(1) shall—

''(1) monitor and evaluate Bureau education programs;

''(2) provide all services and support functions for education programs with respect to personnel matters involving staffing actions and functions; and

''(3) provide technical and coordination assistance in areas such as procurement, contracting, budgeting, personnel, curricula, and operation and maintenance of school facilities.

''(e) CONSTRUCTION, IMPROVEMENT, OPERATION, AND MAINTENANCE OF FACILITIES.—

''(1) PLAN FOR CONSTRUCTION.—The Assistant Secretary for Indian Affairs shall submit as part of the annual budget request for educational services (as contained in the President's annual budget request under section 1105 of title 31, United States Code) a plan—

''(A) for the construction of school facilities in accordance with section 1124(d);

''(B) for the improvement and repair of education facilities and for establishing priorities among the improvement and repair projects involved, which together shall form the basis for the distribution of appropriated funds; and

''(C) for capital improvements to education facilities to be made over the 5 years succeeding the year covered by the plan.

''(2) PROGRAM FOR OPERATION AND MAINTENANCE.—

''(A) IN GENERAL.—

''(i) PROGRAM.—The Assistant Secretary shall establish a program, including a program for the distribution of funds appropriated under this part, for the operation and maintenance of education facilities. Such program shall include—

''(I) a method of computing the amount necessary for the operation and maintenance of each education facility;

''(II) a requirement of similar treatment of all Bureau funded schools;

''(III) a notice of an allocation of the appropriated funds from the Director of the Office directly to the appropriate education line officers and school officials;

''(IV) a method for determining the need for, and priority of, facilities improvement and repair projects, both major and minor; and

''(V) a system for conducting routine preventive maintenance.

''(ii) MEETINGS.—In making the determination referred to in clause (i)(IV), the Assistant Secretary shall cause a series of meetings to be conducted at the area and agency level with representatives of the Bureau funded schools in the corresponding areas and served by corresponding agencies, to receive comment on the projects described in clause (i)(IV) and prioritization of such projects.

''(B) MAINTENANCE.—The appropriate education line officers shall make arrangements for the maintenance of the education facilities with the local supervisors of the Bureau maintenance personnel. The local supervisors of Bureau maintenance personnel shall take appropriate action to implement the decisions made by the appropriate education line officers. No funds made available

under this part may be authorized for expenditure for maintenance of such an education facility unless the appropriate education line officer is assured that the necessary maintenance has been, or will be, provided in a reasonable manner.

''(3) IMPLEMENTATION.—The requirements of this subsection shall be implemented as soon as practicable after the date of enactment of the Native American Education Improvement Act of 2001.

''(f) ACCEPTANCE OF GIFTS AND BEQUESTS.—

''(1) GUIDELINES.—Notwithstanding any other provision of law, the Director of the Office shall promulgate guidelines for the establishment and administration of mechanisms for the acceptance of gifts and bequests for the use and benefit of particular schools or designated Bureau operated education programs, including, in appropriate cases, the establishment and administration of trust funds.

''(2) MONITORING AND REPORTS.—Except as provided in paragraph (3), in a case in which a Bureau operated education program is the beneficiary of such a gift or bequest, the Director shall—

''(A) make provisions for monitoring use of the gift or bequest; and

''(B) submit a report to the appropriate committees of Congress that describes the amount and terms of such gift or bequest, the manner in which such gift or bequest shall be used, and any results achieved by such use.

''(3) EXCEPTION.—The requirements of paragraph (2) shall not apply in the case of a gift or bequest that is valued at $5,000 or less.

''(g) FUNCTIONS CLARIFIED.—In this section, the term 'functions' includes powers and duties.

''SEC. 1126. ALLOTMENT FORMULA.

''(a) FACTORS CONSIDERED; REVISION TO REFLECT STANDARDS.—

''(1) FORMULA.—The Secretary shall establish, by regulation adopted in accordance with section 1137, a formula for determining the minimum annual amount of funds necessary to operate each Bureau funded school. In establishing such formula, the Secretary shall consider—

''(A) the number of eligible Indian students served by the school and the total student population of the school;

''(B) special cost factors, such as—

''(i) the isolation of the school;

''(ii) the need for special staffing, transportation, or educational programs;

''(iii) food and housing costs;

''(iv) maintenance and repair costs associated with the physical condition of the educational facilities;

''(v) special transportation and other costs of an isolated or small school;

''(vi) the costs of home-living (dormitory) arrangements, where determined necessary by a tribal governing body or designated school board;

''(vii) costs associated with greater lengths of service by education personnel;

''(viii) the costs of therapeutic programs for students requiring such programs; and

''(ix) special costs for gifted and talented students;

''(C) the costs of providing academic services that are at least equivalent to the services provided by public schools in the State in which the school is located;

''(D) whether the available funding will enable the school involved to comply with the accreditation standards applicable to the school under section 1121; and

''(E) such other relevant factors as the Secretary determines are appropriate.

''(2) REVISION OF FORMULA.—On the establishment of the standards required in sections 1121 and 1122, the Secretary shall—

''(A) revise the formula established under paragraph (1) to reflect the cost of compliance with such standards; and

''(B)(i) by not later than January 1, 2002, review the formula established under paragraph (1) and take such action as may be necessary to increase the availability of counseling and therapeutic programs for students in off-reservation home-living schools and other Bureau operated residential facilities; and

''(ii) concurrently with any actions taken under clause (i), review the standards established under section 1121 to be certain that the standards adequately provide for parental notification regarding, and consent for, such counseling and therapeutic programs.

''(b) PRO RATA ALLOTMENT.—Notwithstanding any other provision of law, Federal funds appropriated for the general local operation of Bureau funded schools shall be allotted on a pro rata basis in accordance with the formula established under subsection (a).

''(c) ANNUAL ADJUSTMENT; RESERVATION OF AMOUNT FOR SCHOOL BOARD ACTIVITIES.—

''(1) ANNUAL ADJUSTMENT.—

''(A) IN GENERAL.—For fiscal year 2002, and for each subsequent fiscal year, the Secretary shall adjust the formula established under subsection (a) to—

''(i) use a weighted factor of 1.2 for each eligible Indian student enrolled in the seventh and eighth grades of the school in considering the number of eligible Indian students served by the school;

''(ii) consider a school with an enrollment of fewer than 50 eligible Indian students as having an average daily attendance of 50 eligible Indian students for purposes of implementing the adjustment factor for small schools;

''(iii) take into account the provision of residential services on less than a 9-month basis at a school in a case in which the school board and supervisor of the school determine that the school will provide the services for fewer than 9 months for the academic year involved;

''(iv) use a weighted factor of 2.0 for each eligible Indian student that—

''(I) is gifted and talented; and

''(II) is enrolled in the school on a full-time basis,

in considering the number of eligible Indian students served by the school; and

''(v) use a weighted factor of 0.25 for each eligible Indian student who is enrolled in a year long credit course in an Indian or Native language as part of the regular curriculum of a school, in considering the number of eligible Indian students served by such school.

''(B) TIMING.—The Secretary shall make the adjustment required under subparagraph (A)(v) for such school after—

''(i) the school board of such school provides a certification of the Indian or Native language curriculum of the school to the Secretary, together with an estimate of the number of full-time students expected to be enrolled in the curriculum in the second academic year after the academic year for which the certification is made; and

''(ii) the funds appropriated for allotments under this section are designated, in the appropriations Act appropriating such funds, as the funds necessary to implement such adjustment at such school without reducing an allotment made under this section to any school by virtue of such adjustment.

''(2) RESERVATION OF AMOUNT.—

''(A) IN GENERAL.—From the funds allotted in accordance with the formula established under subsection (a) for each Bureau school, the local school board of such school may reserve an amount which does not exceed the greater of—

''(i) $8,000; or

''(ii) the lesser of—

''(I) $15,000; or

''(II) 1 percent of such allotted funds,

for school board activities for such school, including (notwithstanding any other provision of law) meeting expenses and the cost of membership in, and support of, organizations engaged in activities on behalf of Indian education.

''(B) TRAINING.—Each local school board, and any agency school board that serves as a local school board for any grant or contract school, shall ensure that each individual who is a new member of the school board receives, within 12 months after the individual becomes a member of the school board, 40 hours of training relevant to that individual's service on the board. Such training may include training concerning legal issues pertaining to Bureau funded schools, legal issues pertaining to school boards, ethics, and other topics determined to be appropriate by the school board.

''(d) RESERVATION OF AMOUNT FOR EMERGENCIES.—

''(1) IN GENERAL.—The Secretary shall reserve from the funds available for allotment for each fiscal year under this section an amount that, in the aggregate, equals 1 percent of the funds available for allotment for that fiscal year.

''(2) USE OF FUNDS.—Amounts reserved under paragraph (1) shall be used, at the discretion of the Director of the Office, to meet emergencies and unforeseen contingencies affecting the education programs funded under this section. Funds reserved under this subsection may only be expended for education services or programs, including emergency repairs of education facilities, at a school site (as defined in section 5204(c)(2) of the Tribally Controlled Schools Act of 1988).

''(3) FUNDS REMAINING AVAILABLE.—Funds reserved under this subsection shall remain available without fiscal year limitation until expended. The aggregate amount of such funds, from all fiscal years, that is available for expenditure in a fiscal year may not exceed an amount equal to 1 percent of the funds available for allotment under this section for that fiscal year.

''(4) REPORTS.—If the Secretary makes funds available under this subsection, the Secretary shall submit a report describing such action to the appropriate committees of Congress as part of the President's next annual budget request under section 1105 of title 31, United States Code).

''(e) SUPPLEMENTAL APPROPRIATIONS.—Any funds provided in a supplemental appropriations Act to meet increased pay costs attributable to school level personnel of Bureau funded schools shall be allotted under this section.

''(f) ELIGIBLE INDIAN STUDENT DEFINED.—In this section, the term 'eligible Indian student' means a student who—

''(1) is a member of, or is at least ¼ degree Indian blood descendant of a member of, a tribe that is eligible for the special programs and services provided by the United States through the Bureau to Indians because of their status as Indians;

''(2) resides on or near a reservation or meets the criteria for attendance at a Bureau off-reservation home-living school; and

''(3) is enrolled in a Bureau funded school.

''(g) TUITION.—

''(1) IN GENERAL.—A Bureau school or contract or grant school may not charge an eligible Indian student tuition for attendance at the school. A Bureau school may not charge a student attending the school under the circumstances described in paragraph (2)(C) tuition for attendance at the school.

''(2) ATTENDANCE OF NON-INDIAN STUDENTS AT BUREAU SCHOOLS.—The Secretary may permit the attendance at a Bureau school of a student who is not an eligible Indian student if—

''(A)(i) the Secretary determines that the student's attendance will not adversely affect the school's program for eligible Indian students because of cost, overcrowding, or violation of standards or accreditation requirements; and

''(ii) the local school board consents; and

''(B)(i) the student is a dependent of a Bureau, Indian Health Service, or tribal government employee who lives on or near the school site; or

''(ii) tuition is paid for the student in an amount that is not more than the amount of tuition charged by the nearest public school district for out-of-district students, and is paid in addition to the school's allotment under this section.

''(3) ATTENDANCE OF NON-INDIAN STUDENTS AT CONTRACT AND GRANT SCHOOLS.—The school board of a contract or grant school may permit students who are not eligible Indian students to attend the contract or grant school. Any tuition collected for those students shall be in addition to the amount the school received under this section.

''(h) FUNDS AVAILABLE WITHOUT FISCAL YEAR LIMITATION.—Notwithstanding any other provision of law, at the election of the local school board of a Bureau school made at any time during a fiscal year, a portion equal to not more than 15 percent of the funds allotted for the school under this section for the fiscal year shall remain available to the school for expenditure without fiscal year limitation. The Assistant Secretary for Indian Affairs shall take such steps as may be necessary to implement this subsection.

''(i) STUDENTS AT RICHFIELD DORMITORY, RICHFIELD, UTAH.—Tuition for the instruction of each out-of-State Indian student in a home-living situation at the Richfield dormitory in Richfield, Utah, who attends Sevier County high schools in Richfield, Utah, for an academic year, shall be paid from Indian school equalization program funds authorized in this section and section 1129, at a rate not to exceed the weighted amount provided for under subsection (b) for a student for that year. No additional administrative cost funds shall be provided under this part to pay for administrative costs relating to the instruction of the students.

''SEC. 1127. ADMINISTRATIVE COST GRANTS.

''(a) DEFINITIONS.—In this section:

''(1) ADMINISTRATIVE COST.—

''(A) IN GENERAL.—The term 'administrative cost' means the cost of necessary administrative functions which—

''(i) the tribe or tribal organization incurs as a result of operating a tribal elementary or secondary educational program;

''(ii) are not customarily paid by comparable Bureau operated programs out of direct program funds; and

''(iii) are either—

''(I) normally provided for comparable Bureau programs by Federal officials using resources other than Bureau direct program funds; or

''(II) are otherwise required of tribal self-determination program operators by law or prudent management practice.

''(B) INCLUSIONS.—The term 'administrative cost' may include—

''(i) contract or grant (or other agreement) administration;

''(ii) executive, policy, and corporate leadership and decisionmaking;

''(iii) program planning, development, and management;

''(iv) fiscal, personnel, property, and procurement management;

''(v) related office services and record keeping; and

''(vi) costs of necessary insurance, auditing, legal, safety and security services.

''(2) BUREAU ELEMENTARY AND SECONDARY FUNCTIONS.—The term 'Bureau elementary and secondary functions' means—

''(A) all functions funded at Bureau schools by the Office;

''(B) all programs—

''(i) funds for which are appropriated to other agencies of the Federal Government; and

''(ii) which are administered for the benefit of Indians through Bureau schools; and

''(C) all operation, maintenance, and repair funds for facilities and government quarters used in the operation or support of elementary and secondary education functions for the benefit of Indians, from whatever source derived.

''(3) DIRECT COST BASE.—

''(A) IN GENERAL.—Except as otherwise provided in subparagraph (B), the direct cost base of a tribe or tribal organization for the fiscal year is the aggregate direct cost program funding for all tribal elementary or secondary educational programs operated by the tribe or tribal organization during—

''(i) the second fiscal year preceding such fiscal year; or

''(ii) if such programs have not been operated by the tribe or tribal organization during the two preceding fiscal years, the first fiscal year preceding such fiscal year.

''(B) FUNCTIONS NOT PREVIOUSLY OPERATED.—In the case of Bureau elementary or secondary education functions which have not previously been operated by a tribe or tribal organization under contract, grant, or agreement with the Bureau, the direct cost base for the initial year shall be the projected aggregate direct cost program funding for all Bureau elementary and secondary functions to be operated by the tribe or tribal organization during that fiscal year.

''(4) MAXIMUM BASE RATE.—The term 'maximum base rate' means 50 percent.

''(5) MINIMUM BASE RATE.—The term 'minimum base rate' means 11 percent.

''(6) STANDARD DIRECT COST BASE.—The term 'standard direct cost base' means $600,000.

''(7) TRIBAL ELEMENTARY OR SECONDARY EDUCATIONAL PROGRAMS.—The term 'tribal elementary or secondary educational programs' means all Bureau elementary and secondary functions, together with any other Bureau programs or portions of programs (excluding funds for social services that are appropriated to agencies other than the Bureau and are expended through the Bureau, funds for major subcontracts, construction, and other major capital expenditures, and unexpended funds carried over from prior years) which share common administrative cost functions, that are operated directly by a tribe or tribal organization under a contract, grant, or agreement with the Bureau.

''(b) GRANTS; EFFECT UPON APPROPRIATED AMOUNTS.—

''(1) GRANTS.—

''(A) IN GENERAL.—Subject to the availability of appropriated funds, the Secretary shall provide a grant to each tribe or tribal organization operating a contract or grant school, in an amount determined under this section, for the purpose of paying the administrative and indirect costs incurred in operating the contract or grant school, in order to—

''(i) enable the tribe or tribal organization operating the school, without reducing direct program services to the beneficiaries of the program, to provide all related administrative overhead services and operations necessary to meet the requirements of law and prudent management practice; and

''(ii) carry out other necessary support functions that would otherwise be provided by the Secretary or other Federal officers or employees, from resources other than direct program funds, in support of comparable Bureau operated programs.

''(B) AMOUNT.—No school operated as a stand-alone institution shall receive less than $200,000 per year under this paragraph.

''(2) EFFECT UPON APPROPRIATED AMOUNTS.—Amounts appropriated to fund the grants provided for under this section shall be in addition to, and shall not reduce, the amounts appropriated for the program being administered by the contract or grant school.

''(c) DETERMINATION OF GRANT AMOUNT.—

''(1) IN GENERAL.—The amount of the grant provided to each tribe or tribal organization under this section for each fiscal year shall be determined by applying the administrative cost percentage rate determined under subsection (d) of the tribe or tribal organization to the aggregate cost of the Bureau elementary and secondary functions operated by the tribe or tribal organization for which funds are received from or through the Bureau. The administrative cost percentage rate does not apply to programs not relating to such functions that are operated by the tribe or tribal organization.

''(2) DIRECT COST BASE FUNDS.—The Secretary shall—

''(A) reduce the amount of the grant determined under paragraph (1) to the extent that payments for administrative costs are actually received by a tribe or tribal organization under any Federal education program that is included in the direct cost base of the tribe or tribal organization; and

''(B) take such actions as may be necessary to be reimbursed by any other department or agency of the Federal Government (other than the Department of the Interior) for the portion of grants made under this section for the costs of administering any program for Indians that is funded by appropriations made to such other department or agency.

''(3) REDUCTIONS.—If the total amount of funds necessary to provide grants to tribes and tribal organizations in the amounts determined under paragraph (1) and (2) for a fiscal year exceeds the amount of funds appropriated to carry out this section for such fiscal year, the Secretary shall reduce the amount of each grant determined under this subsection for such fiscal year by an amount that bears the same relationship to such excess as the amount of such grants determined under this subsection bears to the total of all grants determined under this subsection for all tribes and tribal organizations for such fiscal year.

''(d) ADMINISTRATIVE COST PERCENTAGE RATE.—

''(1) IN GENERAL.—For purposes of this section, the administrative cost percentage rate

for a contract or grant school for a fiscal year is equal to the percentage determined by dividing—

''(A) the sum of—

''(i) the amount equal to—

''(I) the direct cost base of the tribe or tribal organization for the fiscal year; multiplied by

''(II) the minimum base rate; plus

''(ii) the amount equal to—

''(I) the standard direct cost base; multiplied by

''(II) the maximum base rate; by

''(B) the sum of—

''(i) the direct cost base of the tribe or tribal organization for the fiscal year; and

''(ii) the standard direct cost base.

''(2) ROUNDING.—The administrative cost percentage rate shall be determined to 1/100 of a percent.

''(e) COMBINING FUNDS.—

''(1) IN GENERAL.—Funds received by a tribe, tribal organization, or contract or grant school through grants made under this section for tribal elementary or secondary educational programs may be combined by the tribe, tribal organization, or contract or grant school and placed into a single administrative cost account without the necessity of maintaining separate funding source accounting.

''(2) INDIRECT COST FUNDS.—Indirect cost funds for programs at the school that share common administrative services with the tribal elementary or secondary educational programs may be included in the administrative cost account described in paragraph (1).

''(f) AVAILABILITY OF FUNDS.—Funds received through a grant made under this section with respect to tribal elementary or secondary educational programs at a contract or grant school shall remain available to the contract or grant school—

''(1) without fiscal year limitation; and

''(2) without reducing the amount of any grants otherwise payable to the school under this section for any fiscal year after the fiscal year for which the grant is provided.

''(g) TREATMENT OF FUNDS.—Funds received through a grant made under this section for Bureau funded programs operated by a tribe or tribal organization under a contract or grant shall not be taken into consideration for purposes of indirect cost underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived.

''(h) TREATMENT OF ENTITY OPERATING OTHER PROGRAMS.—In applying this section and section 106 of the Indian Self-Determination and Education Assistance Act with respect to an Indian tribe or tribal organization that—

''(1) receives funds under this section for administrative costs incurred in operating a contract or grant school or a school operated under the Tribally Controlled Schools Act of 1988; and

''(2) operates one or more other programs under a contract or grant provided under the Indian Self-Determination and Education Assistance Act,

the Secretary shall ensure that the Indian tribe or tribal organization is provided with the full amount of the administrative costs that are associated with operating the contract or grant school, and of the indirect costs, that are associated with all of such other programs, except that funds appropriated for implementation of this section shall be used only to supply the amount of the grant required to be provided by this section.

''(i) APPLICABILITY TO SCHOOLS OPERATING UNDER TRIBALLY CONTROLLED SCHOOLS ACT OF 1988.—The provisions of this section that apply to contract or grant schools shall also apply to those schools receiving assistance under the Tribally Controlled Schools Act of 1988.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

''SEC. 1128. DIVISION OF BUDGET ANALYSIS.

''(a) ESTABLISHMENT.—Not later than 12 months after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary shall establish within the Office of Indian Education Programs a Division of Budget Analysis (referred to in this section as the 'Division'). Such Division shall be under the direct supervision and control of the Director of the Office.

''(b) FUNCTIONS.—In consultation with the tribal governing bodies and local school boards the Director of the Office, through the head of the Division, shall conduct studies, surveys, or other activities to gather demographic information on Bureau funded schools and project the amounts necessary to provide to Indian students in such schools the educational program set forth in this part.

''(c) ANNUAL REPORTS.—Not later than the date that the Assistant Secretary for Indian Affairs submits the annual budget request as part of the President's annual budget request under section 1105 of title 31, United States Code for each fiscal year after the date of enactment of the Native American Education Improvement Act of 2001, the Director of the Office shall submit to the appropriate committees of Congress (including the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate), all Bureau funded schools, and the tribal governing bodies relating to such schools, a report that shall contain—

''(1) projections, based on the information gathered pursuant to subsection (b) and any other relevant information, of amounts necessary to provide to Indian students in Bureau funded schools the educational program set forth in this part;

''(2) a description of the methods and formulas used to calculate the amounts projected pursuant to paragraph (1); and

''(3) such other information as the Director of the Office considers to be appropriate.

''(d) USE OF REPORTS.—The Director of the Office and the Assistant Secretary for Indian Affairs shall use the information contained in the annual report required by subsection (c) in preparing their annual budget requests.

''SEC. 1129. UNIFORM DIRECT FUNDING AND SUPPORT.

''(a) ESTABLISHMENT OF SYSTEM AND FORWARD FUNDING.—

''(1) IN GENERAL.—The Secretary shall establish, by regulation adopted in accordance with section 1137, a system for the direct funding and support of all Bureau funded schools. Such system shall allot funds in accordance with section 1126. All amounts appropriated for distribution in accordance with this section may be made available in accordance with paragraph (2).

''(2) TIMING FOR USE OF FUNDS.—

''(A) AVAILABILITY.—With regard to funds for affected schools under this part that become available for obligation on October 1 of the fiscal year for which such funds are appropriated, the Secretary shall make payments to such affected schools not later than December 1 of the fiscal year, except that operations and maintenance funds shall be forward funded and shall be available for obligation not later than July 15 and December 1 of each fiscal year, and shall remain available for obligation through the succeeding fiscal year.

''(B) PUBLICATIONS.—The Secretary shall, on the basis of the amounts appropriated as described in this paragraph—

''(i) publish, not later than July 1 of the fiscal year for which the amounts are appropriated, information indicating the amount of the allotments to be made to each affected school under section 1126, of 85 percent of such appropriated amounts; and

''(ii) publish, not later than September 30 of such fiscal year, information indicating the amount of the allotments to be made under section 1126, from the remaining 15 percent of such appropriated amounts, adjusted to reflect the actual student attendance.

''(3) LIMITATION.—

''(A) EXPENDITURES.—Notwithstanding any other provision of law (including a regulation), the supervisor of a Bureau school may expend an aggregate of not more than $50,000 of the amount allotted to the school under section 1126 to acquire materials, supplies, equipment, operation services, maintenance services, and other services for the school, and amounts received as operations and maintenance funds, funds received from the Department of Education, or funds received from other Federal sources, without competitive bidding if—

''(i) the cost for any single item acquired does not exceed $15,000;

''(ii) the school board approves the acquisition;

''(iii) the supervisor certifies that the cost is fair and reasonable;

''(iv) the documents relating to the acquisition executed by the supervisor of the school or other school staff cite this paragraph as authority for the acquisition; and

''(v) the acquisition transaction is documented in a journal maintained at the school that clearly identifies when the transaction occurred, the item that was acquired and from whom, the price paid, the quantities acquired, and any other information the supervisor or the school board considers to be relevant.

''(B) NOTICE.—Not later than 6 months after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary shall send notice of the provisions of this paragraph to each supervisor of a Bureau school and associated school board chairperson, the education line officer of each agency and area, and the Bureau division in charge of procurement, at both the local and national levels.

''(C) APPLICATION AND GUIDELINES.—The Director of the Office shall be responsible for—

''(i) determining the application of this paragraph, including the authorization of specific individuals to carry out this paragraph;

''(ii) ensuring that there is at least 1 such individual at each Bureau facility; and

''(iii) the provision of guidelines on the use of this paragraph and adequate training on such guidelines.

''(b) LOCAL FINANCIAL PLANS FOR EXPENDITURE OF FUNDS.—

''(1) PLAN REQUIRED.—

''(A) IN GENERAL.—Each Bureau school that receives an allotment under section 1126 shall prepare a local financial plan that specifies the manner in which the school will expend the funds made available under the allotment and ensures that the school will

meet the accreditation requirements or standards for the school established pursuant to section 1121.

''(B) REQUIREMENT.—A local financial plan under subparagraph (A) shall comply with all applicable Federal and tribal laws.

''(C) PREPARATION AND REVISION.—The financial plan for a school under subparagraph (A) shall be prepared by the supervisor of the school in active consultation with the local school board for the school. The local school board for each school shall have the authority to ratify, reject, or amend such financial plan and, at the initiative of the local school board or in response to the supervisor of the school, to revise such financial plan to meet needs not foreseen at the time of preparation of the financial plan.

''(D) ROLE OF SUPERVISOR.—The supervisor of the school—

''(i) shall put into effect the decisions of the school board relating to the financial plan under subparagraph (A); and

''(ii) shall provide the appropriate local union representative of the education employees of the school with copies of proposed financial plans relating to the school and all modifications and proposed modifications to the plans, and at the same time submit such copies to the local school board.

''(iii) may appeal any such action of the local school board to the appropriate education line officer of the Bureau agency by filing a written statement describing the action and the reasons the supervisor believes such action should be overturned.

A copy of statement under clause (iii) shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the appropriate education line officer may, for good cause, overturn the action of the local school board. The appropriate education line officer shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such action.

''(2) REQUIREMENT.—A Bureau school shall expend amounts received under an allotment under section 1126 in accordance with the local financial plan prepared under paragraph (1).

''(c) TRIBAL DIVISION OF EDUCATION, SELF-DETERMINATION GRANT AND CONTRACT FUNDS.—The Secretary may approve applications for funding tribal divisions of education and developing tribal codes of education, from funds made available pursuant to section 103(a) of the Indian Self-Determination and Education Assistance Act.

''(d) TECHNICAL ASSISTANCE AND TRAINING.—A local school board may, in the exercise of the authority of the school board under this section, request technical assistance and training from the Secretary. The Secretary shall, to the greatest extent possible, provide such assistance and training, and make appropriate provision in the budget of the Office for such assistance and training.

''(e) SUMMER PROGRAM OF ACADEMIC AND SUPPORT SERVICES.—

''(1) IN GENERAL.—A financial plan prepared under subsection (b) for a school may include, at the discretion of the supervisor and the local school board of such school, a provision for funding a summer program of academic and support services for students of the school. Any such program may include activities related to the prevention of alcohol and substance abuse. The Assistant Secretary for Indian Affairs shall provide for the utilization of facilities of the school for such program during any summer in which such utilization is requested.

''(2) USE OF OTHER FUNDS.—Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934 (commonly known as the 'Johnson-O'Malley Act'; 48 Stat. 596, chapter 147) and this Act may be used to augment the services provided in each summer program referred to in paragraph (1) at the option of the tribe or school receiving such funds. The augmented services shall be under the control of the tribe or school.

''(3) TECHNICAL ASSISTANCE AND PROGRAM COORDINATION.—The Assistant Secretary for Indian Affairs, acting through the Director of the Office, shall provide technical assistance and coordination of activities for any program described in paragraph (1) and shall, to the extent possible, encourage the coordination of such programs with any other summer programs that might benefit Indian youth, regardless of the funding source or administrative entity of such programs.

''(f) COOPERATIVE AGREEMENTS.—

''(1) IN GENERAL.—From funds allotted to a Bureau school under section 1126, the Secretary shall, if specifically requested by the appropriate tribal governing body, implement a cooperative agreement that is entered into between the tribe, the Bureau, the local school board, and a local public school district that meets the requirements of paragraph (2) and involves the school. The tribe, the Bureau, the school board, and the local public school district shall determine the terms of the agreement.

''(2) COORDINATION PROVISIONS.—An agreement under paragraph (1) may, with respect to the Bureau school and schools in the school district involved, encompass coordination of all or any part of the following:

''(A) The academic program and curriculum, unless the Bureau school is accredited by a State or regional accrediting entity and would not continue to be so accredited if the agreement encompassed the program and curriculum.

''(B) Support services, including procurement and facilities maintenance.

''(C) Transportation.

''(3) EQUAL BENEFIT AND BURDEN.—

''(A) IN GENERAL.—Each agreement entered into pursuant to the authority provided in paragraph (1) shall confer a benefit upon the Bureau school commensurate with the burden assumed by the school.

''(B) LIMITATION.—Subparagraph (A) shall not be construed to require equal expenditures, or an exchange of similar services, by the Bureau school and schools in the school district.

''(g) PRODUCT OR RESULT OF STUDENT PROJECTS.—Notwithstanding any other provision of law, where there is agreement on action between the superintendent and the school board of a Bureau funded school, the product or result of a project conducted in whole or in major part by a student may be given to that student upon the completion of such project.

''(h) MATCHING FUND REQUIREMENTS.—

''(1) NOT CONSIDERED FEDERAL FUNDS.—Notwithstanding any other provision of law, funds received by a Bureau funded school under this title for education-related activities (not including funds for construction, maintenance and facilities, improvement or repair) shall not be considered to be Federal funds for the purposes of meeting a matching funds requirement for any Federal program.

''(2) NONAPPLICATION OF REQUIREMENTS.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, no requirement relating to the provision of matching funds or the provision of services or in-kind activity as a condition of participation in a program or project or receipt of a grant, shall apply to a Bureau funded school unless the provision of law authorizing such requirement specifies that such requirement applies to such a school.

''(B) LIMITATION.—In considering an application from a Bureau funded school for participation in a program or project that has a requirement described in subparagraph (A), the entity administering such program or project or receiving such grant shall not give positive or negative weight to such application based solely on the provisions of this paragraph. Such an application shall be considered as if it fully met any matching requirement.

''SEC. 1130. POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION.

''(a) FACILITATION OF INDIAN CONTROL.—It shall be the policy of the Secretary and the Bureau, in carrying out the functions of the Bureau, to facilitate Indian control of Indian affairs in all matters relating to education.

''(b) CONSULTATION WITH TRIBES.—

''(1) IN GENERAL.—All actions under this Act shall be done with active consultation with tribes. The Bureau and tribes shall work in a government-to-government relationship to ensure quality education for all tribal members.

''(2) REQUIREMENTS.—The consultation required under paragraph (1) means a process involving the open discussion and joint deliberation of all options with respect to potential issues or changes between the Bureau and all interested parties. During such discussions and joint deliberations, interested parties (including tribes and school officials) shall be given an opportunity to present issues including proposals regarding changes in current practices or programs which will be considered for future action by the Bureau. All interested parties shall be given an opportunity to participate and discuss the options presented or to present alternatives, with the views and concerns of the interested parties given effect unless the Secretary determines, from information available from or presented by the interested parties during one or more of the discussions and deliberations, that there is a substantial reason for another course of action. The Secretary shall submit to any Member of Congress, within 18 days of the receipt of a written request by such Member, a written explanation of any decision made by the Secretary which is not consistent with the views of the interested parties.

''SEC. 1131. INDIAN EDUCATION PERSONNEL.

''(a) DEFINITIONS.—In this section:

''(1) EDUCATION POSITION.—The term 'education position' means a position in the Bureau the duties and responsibilities of which—

''(A) are performed on a school-year basis principally in a Bureau school and involve—

''(i) classroom or other instruction or the supervision or direction of classroom or other instruction;

''(ii) any activity (other than teaching) that requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education;

''(iii) any activity in or related to the field of education, whether or not academic credits in educational theory and practice are a formal requirement for the conduct of such activity; or

''(iv) provision of support services at, or associated with, the site of the school; or

''(B) are performed at the agency level of the Bureau and involve the implementation of education-related programs, other than the position of agency superintendent for education.

''(2) EDUCATOR.—The term 'educator' means an individual whose services are required, or who is employed, in an education position.

''(b) CIVIL SERVICE AUTHORITIES INAPPLICABLE.—Chapter 51, subchapter III of chapter 53, and chapter 63 of title 5, United States Code, relating to classification, pay, and leave, respectively, and the sections of such title relating to the appointment, promotion, hours of work, and removal of civil service employees, shall not apply to educators or to education positions.

''(c) REGULATIONS.—Not later than 60 days after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary shall prescribe regulations to carry out this section. Such regulations shall include provisions relating to—

''(1) the establishment of education positions;

''(2) the establishment of qualifications for educators and education personnel;

''(3) the fixing of basic compensation for educators and education positions;

''(4) the appointment of educators;

''(5) the discharge of educators;

''(6) the entitlement of educators to compensation;

''(7) the payment of compensation to educators;

''(8) the conditions of employment of educators;

''(9) the leave system for educators;

''(10) the length of the school year applicable to education positions described in subsection (a)(1)(A); and

''(11) such matters as may be appropriate.

''(d) QUALIFICATIONS OF EDUCATORS.—

''(1) REQUIREMENTS.—In prescribing regulations to govern the qualifications of educators, the Secretary shall require—

''(A) that lists of qualified and interviewed applicants for education positions be maintained in the appropriate agency or area office of the Bureau or, in the case of individuals applying at the national level, the Office;

''(B)(i) that a local school board have the authority to waive, on a case-by-case basis, any formal education or degree qualification established by regulation, in order for a tribal member to be hired in an education position to teach courses on tribal culture and language; and

''(ii) that a determination by a local school board that such a tribal member be hired shall be instituted by the supervisor of the school involved; and

''(C) that it shall not be a prerequisite to the employment of an individual in an education position at the local level—

''(i) that such individual's name appear on a list maintained pursuant to subparagraph (A); or

''(ii) that such individual have applied at the national level for an education position.

''(2) EXCEPTION FOR CERTAIN TEMPORARY EMPLOYMENT.—The Secretary may authorize the temporary employment in an education position of an individual who has not met the certification standards established pursuant to regulations, if the Secretary determines that failure to authorize the employment would result in that position remaining vacant.

''(e) HIRING OF EDUCATORS.—

''(1) REQUIREMENTS.—In prescribing regulations to govern the appointment of educators, the Secretary shall require—

''(A)(i)(I) that educators employed in a Bureau school (other than the supervisor of the school) shall be hired by the supervisor of the school; and

''(II) that, in a case in which there are no qualified applicants available to fill a vacancy at a Bureau school, the supervisor may consult a list maintained pursuant to subsection (d)(1)(A);

''(ii) each supervisor of a Bureau school shall be hired by the education line officer of the agency office of the Bureau for the jurisdiction in which the school is located;

''(iii) each educator employed in an agency office of the Bureau shall be hired by the superintendent for education of the agency office; and

''(iv) each education line officer and educator employed in the office of the Director of the Office shall be hired by the Director;

''(B)(i) that, before an individual is employed in an education position in a Bureau school by the supervisor of the school (or, with respect to the position of supervisor, by the appropriate agency education line officer), the local school board for the school shall be consulted; and

''(ii) that a determination by such school board, as evidenced by school board records, that such individual should or should not be so employed shall be instituted by the supervisor (or with respect to the position of supervisor, by the superintendent for education of the agency office);

''(C)(i) that, before an individual is employed in an education position in an agency office of the Bureau, the appropriate agency school board shall be consulted; and

''(ii) that a determination by such school board, as evidenced by school board records, that such individual should or should not be employed shall be instituted by the superintendent for education of the agency office;

''(D) that before an individual is employed in an education position (as described in subsection (a)(1)(B)) in the office of the Director of the Office (other than the position of Director), the school boards representing all Bureau schools shall be consulted; and

''(E) that all employment decisions or actions be in compliance with all applicable Federal, State and tribal laws.

''(2) INFORMATION REGARDING APPLICATION AT NATIONAL LEVEL.—

''(A) IN GENERAL.—Any individual who applies at the local level for an education position shall state on such individual's application whether or not such individual has applied at the national level for an education position.

''(B) EFFECT OF INACCURATE STATEMENT.—If an individual described in subparagraph (A) is employed at the local level, such individual's name shall be immediately forwarded to the Secretary by the local employer. The Secretary shall, as soon as practicable but in no event later than 30 days after the receipt of the name, ascertain the accuracy of the statement made by such individual pursuant to subparagraph (A). Notwithstanding subsection (g), if the Secretary finds that the individual's statement was false, such individual, at the Secretary's discretion, may be disciplined or discharged.

''(C) EFFECT OF APPLICATION AT NATIONAL LEVEL.—If an individual described in subparagraph (A) has applied at the national level for an education position, the appointment of such individual at the local level shall be conditional for a period of 90 days. During that period, the Secretary may appoint a more qualified individual (as determined by the Secretary) from a list maintained pursuant to subsection (e)(1)(A) to the position to which such individual was appointed.

''(3) STATUTORY CONSTRUCTION.—Except as expressly provided, nothing in this section shall be construed as conferring upon local school boards authority over, or control of, educators at Bureau funded schools or the authority to issue management decisions.

''(4) APPEALS.—

''(A) BY SUPERVISOR.—The supervisor of a school may appeal to the appropriate agency education line officer any determination by the local school board for the school that an individual be employed, or not be employed, in an education position in the school (other than that of supervisor) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the education line officer may, for good cause, overturn the determination of the local school board. The education line officer shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such determination.

''(B) BY EDUCATION LINE OFFICER.—The education line officer of an agency office of the Bureau may appeal to the Director of the Office any determination by the local school board for the school that an individual be employed, or not be employed, as the supervisor of a school by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded. an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the local school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such education line officer identifying the reasons for overturning such determination.

''(5) OTHER APPEALS.—The education line officer of an agency office of the Bureau may appeal to the Director of the Office any determination by the agency school board that an individual be employed, or not be employed, in an education position in such agency office by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the agency school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the agency school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such education line officer identifying the reasons for overturning such determination.

''(f) DISCHARGE AND CONDITIONS OF EMPLOYMENT OF EDUCATORS.—

''(1) REGULATIONS.—In prescribing regulations to govern the discharge and conditions of employment of educators, the Secretary shall require—

''(A) that procedures shall be established for the rapid and equitable resolution of grievances of educators;

''(B) that no educator may be discharged without notice of the reasons for the discharge and an opportunity for a hearing under procedures that comport with the requirements of due process; and

''(C) that each educator employed in a Bureau school shall be notified 30 days prior to the end of an academic year whether the employment contract of the individual will be renewed for the following year.

''(2) PROCEDURES FOR DISCHARGE.—

''(A) DETERMINATIONS.—The supervisor of a Bureau school may discharge (subject to procedures established under paragraph (1)(B)) for cause (as determined under regulations prescribed by the Secretary) any educator employed in such school. On giving notice to an educator of the supervisor's intention to discharge the educator, the supervisor shall immediately notify the local school board of the proposed discharge. A determination by the local school board that such educator shall not be discharged shall be followed by the supervisor.

''(B) APPEALS.—The supervisor shall have the right to appeal a determination by a local school board under subparagraph (A), as evidenced by school board records, not to discharge an educator to the education line officer of the appropriate agency office of the Bureau. Upon hearing such an appeal, the agency education line officer may, for good cause, issue a decision overturning the determination of the local school board with respect to the employment of such individual. The education line officer shall make the decision in writing and submit the decision to the local school board.

''(3) RECOMMENDATIONS OF SCHOOL BOARDS FOR DISCHARGE.—Each local school board for a Bureau school shall have the right—

''(A) to recommend to the supervisor that an educator employed in the school be discharged; and

''(B) to recommend to the education line officer of the appropriate agency office of the Bureau and to the Director of the Office, that the supervisor of the school be discharged.

''(g) APPLICABILITY OF INDIAN PREFERENCE LAWS.—

''(1) IN GENERAL.—Notwithstanding any provision of the Indian preference laws, such laws shall not apply in the case of any personnel action carried out under this section with respect to an applicant or employee not entitled to an Indian preference if each tribal organization concerned grants a written waiver of the application of such laws with respect to such personnel action and states that such waiver is necessary. This paragraph shall not be construed to relieve the Bureau's responsibility to issue timely and adequate announcements and advertisements concerning any such personnel action if such action is intended to fill a vacancy (no matter how such vacancy is created).

''(2) DEFINITIONS.—In this subsection:

''(A) INDIAN PREFERENCE LAWS.—The term 'Indian preference laws' means section 12 of the Act of June 18, 1934 (48 Stat. 986, chapter 576) or any other provision of law granting a preference to Indians in promotions and other personnel actions. Such term shall not include section 7(b) of the Indian Self-Determination and Education Assistance Act.

''(B) TRIBAL ORGANIZATION.—The term 'tribal organization' means—

''(i) the recognized governing body of any Indian tribe, band, nation, pueblo, or other organized community, including a Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act); or

''(ii) in connection with any personnel action referred to in this subsection, any local school board to which the governing body has delegated the authority to grant a waiver under this subsection with respect to a personnel action.

''(h) COMPENSATION OR ANNUAL SALARY.—

''(1) IN GENERAL.—

''(A) COMPENSATION FOR EDUCATORS AND EDUCATION POSITIONS.—Except as otherwise provided in this section, the Secretary shall fix the basic compensation for educators and education positions—

''(i) at rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5, United States Code, is applicable; or

''(ii) on the basis of the Federal Wage System schedule in effect for the locality involved, and for the comparable positions, at the rates of compensation in effect for the senior executive service.

''(B) COMPENSATION OR SALARY FOR TEACHERS AND COUNSELORS.—The Secretary shall establish the rate of basic compensation, or annual salary rate, for the positions of teachers and counselors (including dormitory counselors and home-living counselors) at the rate of basic compensation applicable (on the date of enactment of the Native American Education Improvement Act of 2001 and thereafter) for comparable positions in the overseas schools under the Defense Department Overseas Teachers Pay and Personnel Practices Act. The Secretary shall allow the local school boards involved authority to implement only the aspects of the Defense Department Overseas Teachers Pay and Personnel Practices Act pay provisions that are considered essential for recruitment and retention of teachers and counselors. Implementation of such provisions shall not be construed to require the implementation of that entire Act.

''(C) RATES FOR NEW HIRES.—

''(i) IN GENERAL.—Beginning with the first fiscal year following the date of enactment of the Native American Education Improvement Act of 2001, each local school board of a Bureau school may establish a rate of compensation or annual salary rate described in clause (ii) for teachers and counselors (including academic counselors) who are new hires at the school and who had not worked at the school, as of the first day of such fiscal year.

''(ii) CONSISTENT RATES.—The rates established under clause (i) shall be consistent with the rates paid for individuals in the same positions, with the same tenure and training, as the teachers and counselors, in any other school within whose boundaries the Bureau school is located.

''(iii) DECREASES.—In an instance in which the establishment of rates under clause (i) causes a reduction in compensation at a school from the rate of compensation that was in effect for the first fiscal year following the date of enactment of the Native American Education Improvement Act of 2001, the new rates of compensation may be applied to the compensation of employees of the school who worked at the school as of such date of enactment by applying those rates at each contract renewal for the employees so that the reduction takes effect in 3 equal installments.

''(iv) INCREASES.—In an instance in which the establishment of such rates at a school causes an increase in compensation from the rate of compensation that was in effect for the first fiscal year following the date of enactment of the Native American Education Improvement Act of 2001, the school board may apply the new rates at the next contract renewal so that either—

''(I) the entire increase occurs on 1 date; or

''(II) the increase takes effect in 3 equal installments.

''(D) ESTABLISHED REGULATIONS, PROCEDURES, AND ARRANGEMENTS.—

''(i) PROMOTIONS AND ADVANCEMENTS.—The establishment of rates of basic compensation and annual salary rates under subparagraphs (B) and (C) shall not preclude the use of regulations and procedures used by the Bureau prior to April 28, 1988, in making determinations regarding promotions and advancements through levels of pay that are based on the merit, education, experience, or tenure of an educator.

''(ii) CONTINUED EMPLOYMENT OR COMPENSATION.—The establishment of rates of basic compensation and annual salary rates under subparagraphs (B) and (C) shall not affect the continued employment or compensation of an educator who was employed in an education position on October 31, 1979, and who did not make an election under subsection (o), as in effect on January 1, 1990.

''(2) POST DIFFERENTIAL RATES.—

''(A) IN GENERAL.—The Secretary may pay a post differential rate not to exceed 25 percent of the rate of basic compensation, for educators or education positions, on the basis of conditions of environment or work that warrant additional pay, as a recruitment and retention incentive.

''(B) SUPERVISOR'S AUTHORITY.—

''(i) IN GENERAL.—Except as provided in clause (ii) on the request of the supervisor and the local school board of a Bureau school, the Secretary shall grant the supervisor of the school authorization to provide 1 or more post differential rates under subparagraph (A).

''(ii) EXCEPTION.—The Secretary shall disapprove, or approve with a modification, a request for authorization to provide a post differential rate if the Secretary determines for clear and convincing reasons (and advises the board in writing of those reasons) that the rate should be disapproved or decreased because the disparity of compensation between the appropriate educators or positions in the Bureau school, and the comparable educators or positions at the nearest public school, is—

''(I)(aa) at least 5 percent; or

''(bb) less than 5 percent; and

''(II) does not affect the recruitment or retention of employees at the school.

''(iii) APPROVAL OF REQUESTS.—A request made under clause (i) shall be considered to be approved at the end of the 60th day after the request is received in the Central Office of the Bureau unless before that time the request is approved, approved with a modification, or disapproved by the Secretary.

''(iv) DISCONTINUATION OF OR DECREASE IN RATES.—The Secretary or the supervisor of a Bureau school may discontinue or decrease a post differential rate provided for under this paragraph at the beginning of an academic year if—

''(I) the local school board requests that such differential be discontinued or decreased; or

''(II) the Secretary or the supervisor, respectively, determines for clear and convincing reasons (and advises the board in writing of those reasons) that there is no disparity of compensation that would affect the recruitment or retention of employees at the school after the differential is discontinued or decreased.

''(v) REPORTS.—On or before February 1 of each year, the Secretary shall submit to Congress a report describing the requests and approvals of authorization made under this paragraph during the previous year and listing the positions receiving post differential rates under contracts entered into under those authorizations.

''(i) LIQUIDATION OF REMAINING LEAVE UPON TERMINATION.—Upon termination of employment with the Bureau, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except that leave earned or accrued under regulations prescribed pursuant to subsection (c)(9) shall not be so liquidated.

''(j) TRANSFER OF REMAINING LEAVE UPON TRANSFER, PROMOTION, OR REEMPLOYMENT.—In the case of any educator who—

''(1) is transferred, promoted, or reappointed, without a break in service, to a position in the Federal Government under a different leave system than the system for leave described in subsection (c)(9); and

''(2) earned or was credited with leave under the regulations prescribed under subsection (c)(9) and has such leave remaining to the credit of such educator;

such leave shall be transferred to such educator's credit in the employing agency for the position on an adjusted basis in accordance with regulations that shall be prescribed by the Director of the Office of Personnel Management.

''(k) INELIGIBILITY FOR EMPLOYMENT OF VOLUNTARILY TERMINATED EDUCATORS.—An educator who voluntarily terminates employment under an employment contract with the Bureau before the expiration of the employment contract shall not be eligible to be employed in another education position in the Bureau during the remainder of the term of such contract.

''(l) DUAL COMPENSATION.—In the case of any educator employed in an education position described in subsection (a)(1)(A) who—

''(1) is employed at the end of an academic year;

''(2) agrees in writing to serve in such position for the next academic year; and

''(3) is employed in another position during the recess period immediately preceding such next academic year, or during such recess period receives additional compensation referred to in section 5533 of title 5, United States Code, relating to dual compensation;

such section 5533 shall not apply to such educator by reason of any such employment during the recess period with respect to any receipt of additional compensation.

''(m) VOLUNTARY SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary may, subject to the approval of the local school boards concerned, accept voluntary services on behalf of Bureau schools. Nothing in this part shall be construed to require Federal employees to work without compensation or to allow the use of volunteer services to displace or replace Federal employees. An individual providing volunteer services under this section shall be considered to be a Federal employee only for purposes of chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

''(n) PRORATION OF PAY.—

''(1) ELECTION OF EMPLOYEE.—Notwithstanding any other provision of law, including laws relating to dual compensation, the Secretary, at the election of an educator, shall prorate the salary of the educator for an academic year over a 12-month period. Each educator employed for the academic year shall annually elect to be paid on a 12-month basis or for those months while school is in session. No educator shall suffer a loss of pay or benefits, including benefits under unemployment or other Federal or federally assisted programs, because of such election.

''(2) CHANGE OF ELECTION.—During the course of such academic year, the employee may change the election made under paragraph (1) once.

''(3) LUMP-SUM PAYMENT.—That portion of the employee's pay that would be paid between academic years may be paid in a lump sum at the election of the employee.

''(4) APPLICATION.—This subsection applies to educators, whether employed under this section or title 5, United States Code.

''(o) EXTRACURRICULAR ACTIVITIES.—

''(1) STIPEND.—Notwithstanding any other provision of law, the Secretary may provide, for Bureau employees in each Bureau area, a stipend in lieu of overtime premium pay or compensatory time off for overtime work. Any employee of the Bureau who performs overtime work that consists of additional activities to provide services to students or otherwise support the school's academic and social programs may elect to be compensated for all such work on the basis of the stipend. Such stipend shall be paid as a supplement to the employee's base pay.

''(2) ELECTION NOT TO RECEIVE STIPEND.—If an employee elects not to be compensated through the stipend established by this subsection, the appropriate provisions of title 5, United States Code, shall apply with respect to the work involved.

''(3) APPLICATION.—This subsection applies to Bureau employees, whether employed under this section or title 5, United States Code.

''(p) COVERED INDIVIDUALS; ELECTION.—This section shall apply with respect to any educator hired after November 1, 1979 (and to any educator who elected to be covered under this section or a corresponding provision after November 1, 1979) and to the position in which such educator is employed. The enactment of this section shall not affect the continued employment of an individual employed on October 31, 1979 in an education position, or such person's right to receive the compensation attached to such position.

''(q) FURLOUGH WITHOUT CONSENT.—

''(1) IN GENERAL.—An educator who was employed in an education position on October 31, 1979, who was eligible to make an election under subsection (p) at that time, and who did not make the election under paragraph such subsection, may not be placed on furlough (within the meaning of section 7511(a)(5) of title 5, United States Code, without the consent of such educator for an aggregate of more than 4 weeks within the same calendar year, unless—

''(A) the supervisor, with the approval of the local school board (or of the education line officer upon appeal under paragraph (2)), of the Bureau school at which such educator provides services determines that a longer period of furlough is necessary due to an insufficient amount of funds available for personnel compensation at such school, as determined under the financial plan process as determined under section 1129(b); and

''(B) all educators (other than principals and clerical employees) providing services at such Bureau school are placed on furloughs of equal length, except that the supervisor, with the approval of the local school board (or of the agency education line officer upon appeal under paragraph (2)), may continue 1 or more educators in pay status if—

''(i) such educators are needed to operate summer programs, attend summer training sessions, or participate in special activities including curriculum development committees; and

''(ii) such educators are selected based upon such educator's qualifications after public notice of the minimum qualifications reasonably necessary and without discrimination as to supervisory, nonsupervisory, or other status of the educators who apply.

''(2) APPEALS.—The supervisor of a Bureau school may appeal to the appropriate agency education line officer any refusal by the local school board to approve any determination of the supervisor that is described in paragraph (1)(A) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be approved. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the education line officer may, for good cause, approve the determination of the supervisor. The educational line officer shall transmit the determination of such appeal in the form of a written opinion to such local school board and to the supervisor identifying the reasons for approving such determination.

''SEC. 1132. COMPUTERIZED MANAGEMENT INFORMATION SYSTEM.

''(a) ESTABLISHMENT OF SYSTEM.—Not later than July 1, 2002, the Secretary shall establish within the Office a computerized management information system, which shall provide processing and information to the Office. The information provided shall include information regarding—

''(1) student enrollment;

''(2) curricula;

''(3) staffing;

''(4) facilities;

''(5) community demographics;

''(6) student assessment information;

''(7) information on the administrative and program costs attributable to each Bureau program, divided into discrete elements;

''(8) relevant reports;

''(9) personnel records;

''(10) finance and payroll; and

''(11) such other items as the Secretary determines to be appropriate.

''(b) IMPLEMENTATION OF SYSTEM.—Not later than July 1, 2003, the Secretary shall complete implementation of such a system at each Bureau field office and Bureau funded school.

''SEC. 1133. UNIFORM EDUCATION PROCEDURES AND PRACTICES.

''Not later than 90 days after the date of enactment of the Native American Education Improvement Act of 2001, the Secretary shall cause the various divisions of the Bureau to formulate uniform procedures and practices with respect to such concerns of those divisions as relate to education, and shall submit a report on the procedures and practices to Congress.

''SEC. 1134. RECRUITMENT OF INDIAN EDUCATORS.

''The Secretary shall institute a policy for the recruitment of qualified Indian educators and a detailed plan to promote employees from within the Bureau. Such plan shall include provisions for opportunities for acquiring work experience prior to receiving an actual work assignment.

''SEC. 1135. ANNUAL REPORT; AUDITS.

''(a) ANNUAL REPORTS.—The Secretary shall submit to each appropriate committee of Congress, all Bureau funded schools, and

the tribal governing bodies of such schools, a detailed annual report on the state of education within the Bureau and any problems encountered in Indian education during the period covered by the report. Such report shall contain suggestions for the improvement of the Bureau educational system and for increasing tribal or local Indian control of such system. Such report shall also include information on the status of tribally controlled community colleges.

''(b) BUDGET REQUEST.—The annual budget request for the Bureau's education programs, as submitted as part of the President's next annual budget request under section 1105 of title 31, United States Code) shall include the plans required by sections 1121(g), 1122(c), and 1124(c).

''(c) FINANCIAL AND COMPLIANCE AUDITS.—The Inspector General of the Department of the Interior shall establish a system to ensure that financial and compliance audits are conducted for each Bureau school at least once in every 3 years. Such an audit of a Bureau school shall examine the extent to which such school has complied with the local financial plan prepared by the school under section 1129(b).

''(d) ADMINISTRATIVE EVALUATION OF SCHOOLS.—The Director shall, at least once every 3 to 5 years, conduct a comprehensive evaluation of Bureau operated schools. Such evaluation shall be in addition to any other program review or evaluation that may be required under Federal law.

''SEC. 1136. RIGHTS OF INDIAN STUDENTS.

''The Secretary shall prescribe such rules and regulations as may be necessary to ensure the protection of the constitutional and civil rights of Indian students attending Bureau funded schools, including such students' right to privacy under the laws of the United States, such students' right to freedom of religion and expression, and such students' right to due process in connection with disciplinary actions, suspensions, and expulsions.

''SEC. 1137. REGULATIONS.

''(a) IN GENERAL.—The Secretary may issue only such regulations as may be necessary to ensure compliance with the specific provisions of this part. In issuing the regulations, the Secretary shall publish proposed regulations in the Federal Register, and shall provide a period of not less than 120 days for public comment and consultation on the regulations. The regulations shall contain, immediately following each regulatory section, a citation to any statutory provision providing authority to issue such regulatory section.

''(b) REGIONAL MEETINGS.—Prior to publishing any proposed regulations under subsection (a) and prior to establishing the negotiated rulemaking committee under subsection (c), the Secretary shall convene regional meetings to consult with personnel of the Office of Indian Education Programs, educators at Bureau schools, representatives of Bureau employees, and tribal officials, parents, teachers and school board members of tribes served by Bureau funded schools to provide guidance to the Secretary on the content of regulations authorized to be issued under this part and the Tribally Controlled Schools Act of 1988.

''(c) NEGOTIATED RULEMAKING.—

''(1) IN GENERAL.—Notwithstanding sections 563(a) and 565(a) of title 5, United States Code, the Secretary shall promulgate regulations authorized under subsection (a) and under the Tribally Controlled Schools Act of 1988, in accordance with the negotiated rulemaking procedures provided for under subchapter III of chapter 5 of title 5, United States Code, and shall publish final regulations in the Federal Register.

''(2) EXPIRATION OF AUTHORITY.—The authority of the Secretary to promulgate regulations under this part and under the Tribally Controlled Schools Act of 1988, shall expire on the date than is 18 months after the date of enactment of this part. If the Secretary determines that an extension of the deadline under this paragraph is appropriate, the Secretary may submit proposed legislation to Congress for an extension of such deadline.

''(3) RULEMAKING COMMITTEE.—The Secretary shall establish a negotiated rulemaking committee to carry out this subsection. In establishing such committee, the Secretary shall—

''(A) apply the procedures provided for under subchapter III of chapter 5 of title 5, United States Code, in a manner that reflects the unique government-to-government relationship between Indian tribes and the United States;

''(B) ensure that the membership of the committee includes only representatives of the Federal Government and of tribes served by Bureau-funded schools;

''(C) select the tribal representatives of the committee from among individuals nominated by the representatives of the tribal and tribally-operated schools;

''(D) ensure, to the maximum extent possible, that the tribal representative membership on the committee reflects the proportionate share of students from tribes served by the Bureau funded school system; and

''(E) comply with the Federal Advisory Committee Act (5 U.S.C. App. 2).

''(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as necessary to carry out the negotiated rulemaking provided for under this section. In the absence of a specific appropriation to carry out this subsection, the Secretary shall pay the costs of the negotiated rulemaking proceedings from the general administrative funds of the Department of the Interior.

''(d) APPLICATION OF SECTION.—

''(1) SUPREMACY OF PROVISIONS.—The provisions of this section shall supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before the date of enactment of this part, and the Secretary may repeal any regulation that is inconsistent with the provisions of this part.

''(2) MODIFICATIONS.—The Secretary may modify regulations promulgated under this section or the Tribally Controlled Schools Act of 1988, only in accordance with this section.

''SEC. 1138. EARLY CHILDHOOD DEVELOPMENT PROGRAM.

''(a) GRANTS.—The Secretary shall make grants to tribes, tribal organizations, and consortia of tribes and tribal organizations to fund early childhood development programs that are operated by such tribes, organizations, or consortia.

''(b) AMOUNT OF GRANTS.—

''(1) IN GENERAL.—The amount of the grant made under subsection (a) to each eligible tribe, tribal organization, or consortium of tribes or tribal organizations for each fiscal year shall be equal to the amount that bears the same relationship to the total amount appropriated under subsection (g) for such fiscal year (other than amounts reserved under subsection (f)) as—

''(A) the total number of children under age 6 who are members of—

''(i) such tribe;

''(ii) the tribe that authorized such tribal organization; or

''(iii) any tribe that—

''(I) is a member of such consortium; or

''(II) so authorizes any tribal organization that is a member of such consortium; bears to

''(B) the total number of all children under age 6 who are members of any tribe that—

''(i) is eligible to receive funds under subsection (a);

''(ii) is a member of a consortium that is eligible to receive such funds; or

''(iii) is authorized by any tribal organization that is eligible to receive such funds.

''(2) LIMITATION.—No grant may be made under subsection (a)—

''(A) to any tribe that has fewer than 500 members;

''(B) to any tribal organization that is authorized to act—

''(i) on behalf of only 1 tribe that has fewer than 500 members; or

''(ii) on behalf of 1 or more tribes that have a combined total membership of fewer than 500 members; or

''(C) to any consortium composed of tribes, or tribal organizations authorized by tribes to act on behalf of the tribes, that have a combined total tribal membership of fewer than 500 members.

''(c) APPLICATIONS.—

''(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), a tribe, tribal organization, or consortium shall submit to the Secretary an application for the grant at such time, in such manner, and containing such information as the Secretary shall prescribe.

''(2) CONTENTS.—An application submitted under paragraph (1) shall describe the early childhood development program that the applicant desires to operate.

''(d) REQUIREMENT OF PROGRAMS FUNDED.—In operating an early childhood development program that is funded through a grant made under subsection (a), a tribe, tribal organization, or consortium—

''(1) shall coordinate the program with other childhood development programs and may provide services that meet identified needs of parents, and children under age 6, that are not being met by the programs, including needs for—

''(A) prenatal care;

''(B) nutrition education;

''(C) health education and screening;

''(D) family literacy services;

''(E) educational testing; and

''(F) other educational services;

''(2) may include, in the early childhood development program funded through the grant, instruction in the language, art, and culture of the tribe served by the program; and

''(3) shall provide for periodic assessments of the program.

''(e) COORDINATION OF FAMILY LITERACY PROGRAMS.—An entity that operates a family literacy program under this section or another similar program funded by the Bureau shall coordinate the program involved with family literacy programs for Indian children carried out under part B of title I of the Elementary and Secondary Education Act of 1965 in order to avoid duplication and to encourage the dissemination of information on quality family literacy programs serving Indians.

''(f) ADMINISTRATIVE COSTS.—The Secretary shall reserve funds appropriated under subsection (g) to include in each grant made

under subsection (a) an amount for administrative costs incurred by the tribe, tribal organization, or consortium involved in establishing and maintaining the early childhood development program.

''(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2002, 2003, 2004, 2005, and 2006.

''SEC. 1139. TRIBAL DEPARTMENTS OR DIVISIONS OF EDUCATION.

''(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall make grants and provide technical assistance to tribes for the development and operation of tribal departments or divisions of education for the purpose of planning and coordinating all educational programs of the tribe.

''(b) APPLICATIONS.—For a tribe to be eligible to receive a grant under this section, the governing body of the tribe shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(c) DIVERSITY.—The Secretary shall award grants under this section in a manner that fosters geographic and population diversity.

''(d) USE.—Tribes that receive grants under this section shall use the funds made available through the grants—

''(1) to facilitate tribal control in all matters relating to the education of Indian children on reservations (and on former Indian reservations in Oklahoma);

''(2) to provide for the development of coordinated educational programs (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) on reservations (and on former Indian reservations in Oklahoma) by encouraging tribal administrative support of all Bureau funded educational programs as well as encouraging tribal cooperation and coordination with entities carrying out all educational programs receiving financial support from other Federal agencies, State agencies, or private entities; and

''(3) to provide for the development and enforcement of tribal educational codes, including tribal educational policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs.

''(e) PRIORITIES.—In making grants under this section, the Secretary shall give priority to any application that—

''(1) includes—

''(A) assurances that the applicant serves 3 or more separate Bureau funded schools; and

''(B) assurances from the applicant that the tribal department of education to be funded under this section will provide coordinating services and technical assistance to all of such schools; and

''(2) includes assurances that all education programs for which funds are provided by such a contract or grant will be monitored and audited, by or through the tribal department of education, to ensure that the programs meet the requirements of law; and

''(3) provides a plan and schedule that—

''(A) provides for—

''(i) the assumption, by the tribal department of education, of all assets and functions of the Bureau agency office associated with the tribe, to the extent the assets and functions relate to education; and

''(ii) the termination by the Bureau of such functions and office at the time of such assumption; and

''(B) provides that the assumption shall occur over the term of the grant made under this section, except that, when mutually agreeable to the tribal governing body and the Assistant Secretary, the period in which such assumption is to occur may be modified, reduced, or extended after the initial year of the grant.

''(e) TIME PERIOD OF GRANT.—Subject to the availability of appropriated funds, a grant provided under this section shall be provided for a period of 3 years. If the performance of the grant recipient is satisfactory to the Secretary, the grant may be renewed for additional 3-year terms.

''(f) TERMS, CONDITIONS, OR REQUIREMENTS.—A tribe that receives a grant under this section shall comply with regulations relating to grants made under section 103(a) of the Indian Self-Determination and Education Assistance Act that are in effect on the date that the tribal governing body submits the application for the grant under subsection (c). The Secretary shall not impose any terms, conditions, or requirements on the provision of grants under this section that are not specified in this section.

''(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $2,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003, 2004, 2005, and 2006.

''SEC. 1140. DEFINITIONS.

''In this part, unless otherwise specified:

''(1) AGENCY SCHOOL BOARD.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'agency school board' means a body, for which—

''(i) the members are appointed by all of the school boards of the schools located within an agency, including schools operated under contracts or grants; and

''(ii) the number of such members shall be determined by the Secretary in consultation with the affected tribes.

''(B) EXCEPTIONS.—In the case of an agency serving a single school, the school board of such school shall be considered to be the agency school board. In the case of an agency serving a school or schools operated under a contract or grant, at least 1 member of the body described in subparagraph (A) shall be from such a school.

''(2) BUREAU.—The term 'Bureau' means the Bureau of Indian Affairs of the Department of the Interior.

''(3) BUREAU FUNDED SCHOOL.—The term 'Bureau funded school' means—

''(A) a Bureau school;

''(B) a contract or grant school; or

''(C) a school for which assistance is provided under the Tribally Controlled Schools Act of 1988.

''(4) BUREAU SCHOOL.—The term 'Bureau school' means—

''(A) a Bureau operated elementary school or secondary school that is a day or boarding school; or

''(B) a Bureau operated dormitory for students attending a school other than a Bureau school.

''(5) CONTRACT OR GRANT SCHOOL.—The term 'contract or grant school' means an elementary school, secondary school, or dormitory that receives financial assistance for its operation under a contract, grant, or agreement with the Bureau under section 102, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act, or under the Tribally Controlled Schools Act of 1988.

''(6) EDUCATION LINE OFFICER.—The term 'education line officer' means a member of the education personnel under the supervision of the Director of the Office, whether located in a central, area, or agency office.

''(7) FINANCIAL PLAN.—The term 'financial plan' means a plan of services provided by each Bureau school.

''(8) INDIAN ORGANIZATION.—The term 'Indian organization' means any group, association, partnership, corporation, or other legal entity owned or controlled by a federally recognized Indian tribe or tribes, or a majority of whose members are members of federally recognized tribes.

''(9) INHERENTLY FEDERAL FUNCTIONS.—The term 'inherently Federal functions' means functions and responsibilities which, under section 1125(c), are non-contractible, including—

''(A) the allocation and obligation of Federal funds and determinations as to the amounts of expenditures;

''(B) the administration of Federal personnel laws for Federal employees;

''(C) the administration of Federal contracting and grant laws, including the monitoring and auditing of contracts and grants in order to maintain the continuing trust, programmatic, and fiscal responsibilities of the Secretary;

''(D) the conducting of administrative hearings and deciding of administrative appeals;

''(E) the determination of the Secretary's views and recommendations concerning administrative appeals or litigation and the representation of the Secretary in administrative appeals and litigation;

''(F) the issuance of Federal regulations and policies as well as any documents published in the Federal Register;

''(G) reporting to Congress and the President;

''(H) the formulation of the Secretary's and the President's policies and their budgetary and legislative recommendations and views; and

''(I) the non-delegable statutory duties of the Secretary relating to trust resources.

''(10) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, or independent or other school district located within a State, and includes any State agency that directly operates and maintains facilities for providing free public education.

''(11) LOCAL SCHOOL BOARD.—The term 'local school board', when used with respect to a Bureau school, means a body chosen in accordance with the laws of the tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that, for a school serving a substantial number of students from different tribes—

''(A) the members of the body shall be appointed by the tribal governing bodies of the tribes affected; and

''(B) the number of such members shall be determined by the Secretary in consultation with the affected tribes.

''(12) OFFICE.—The term 'Office' means the Office of Indian Education Programs within the Bureau.

''(13) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(14) SUPERVISOR.—The term 'supervisor' means the individual in the position of ultimate authority at a Bureau school.

''(15) TRIBAL GOVERNING BODY.—The term 'tribal governing body' means, with respect to any school, the tribal governing body, or tribal governing bodies, that represent at

least 90 percent of the students served by such school.

''(16) TRIBE.—The term 'tribe' means any Indian tribe, band, nation, or other organized group or community, including an Alaska Native Regional Corporation or Village Corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.''.

TITLE II—TRIBALLY CONTROLLED SCHOOLS ACT OF 1988

SEC. 201. TRIBALLY CONTROLLED SCHOOLS.

Sections 5202 through 5213 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) are amended to read as follows:

''SEC. 5202. FINDINGS.

''Congress, after careful review of the Federal Government's historical and special legal relationship with, and resulting responsibilities to, Indians, finds that—

''(1) the Indian Self-Determination and Education Assistance Act, which was a product of the legitimate aspirations and a recognition of the inherent authority of Indian nations, was and is a crucial positive step towards tribal and community control;

''(2) because of the Bureau of Indian Affairs' administration and domination of the contracting process under such Act, Indians have not been provided with the full opportunity to develop leadership skills crucial to the realization of self-government and have been denied an effective voice in the planning and implementation of programs for the benefit of Indians that are responsive to the true needs of Indian communities;

''(3) Indians will never surrender their desire to control their relationships both among themselves and with non-Indian governments, organizations, and persons;

''(4) true self-determination in any society of people is dependent upon an educational process that will ensure the development of qualified people to fulfill meaningful leadership roles;

''(5) the Federal administration of education for Indian children have not effected the desired level of educational achievement or created the diverse opportunities and personal satisfaction that education can and should provide;

''(6) true local control requires the least possible Federal interference; and

''(7) the time has come to enhance the concepts made manifest in the Indian Self-Determination and Education Assistance Act.

''SEC. 5203. DECLARATION OF POLICY.

''(a) RECOGNITION.—Congress recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational services so as to render the persons administering such services and the services themselves more responsive to the needs and desires of Indian communities.

''(b) COMMITMENT.—Congress declares its commitment to the maintenance of the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy for education that will deter further perpetuation of Federal bureaucratic domination of programs.

''(c) NATIONAL GOAL.—Congress declares that a major national goal of the United States is to provide the resources, processes, and structure that will enable tribes and local communities to obtain the quantity and quality of educational services and opportunities that will permit Indian children—

''(1) to compete and excel in the life areas of their choice; and

''(2) to achieve the measure of self-determination essential to their social and economic well-being.

''(d) EDUCATIONAL NEEDS.—Congress affirms—

''(1) the reality of the special and unique educational needs of Indian people, including the need for programs to meet the linguistic and cultural aspirations of Indian tribes and communities; and

''(2) that the needs may best be met through a grant process.

''(e) FEDERAL RELATIONS.—Congress declares a commitment to the policies described in this section and support, to the full extent of congressional responsibility, for Federal relations with the Indian nations.

''(f) TERMINATION.—Congress repudiates and rejects House Concurrent Resolution 108 of the 83d Congress and any policy of unilateral termination of Federal relations with any Indian Nation.

''SEC. 5204. GRANTS AUTHORIZED.

''(a) IN GENERAL.—

''(1) ELIGIBILITY.—The Secretary shall provide grants to Indian tribes and tribal organizations that—

''(A) operate contract schools under title XI of the Education Amendments of 1978 and notify the Secretary of their election to operate the schools with assistance under this part rather than continuing to operate such schools as contract schools under such title;

''(B) operate other tribally controlled schools eligible for assistance under this part and submit applications (which are approved by their tribal governing bodies) to the Secretary for such grants; or

''(C) elect to assume operation of Bureau funded schools with the assistance provided under this part and submit applications (which are approved by their tribal governing bodies) to the Secretary for such grants.

''(2) DEPOSIT OF FUNDS.—Funds made available through a grant provided under this part shall be deposited into the general operating fund of the tribally controlled school with respect to which the grant is made.

''(3) USE OF FUNDS.—

''(A) EDUCATION RELATED ACTIVITIES.—Except as otherwise provided in this paragraph, funds made available through a grant provided under this part shall be used to defray, at the discretion of the school board of the tribally controlled school with respect to which the grant is provided, any expenditures for education related activities for which the grant may be used under the laws described in section 5205(a), or any similar activities, including expenditures for—

''(i) school operations, and academic, educational, residential, guidance and counseling, and administrative purposes; and

''(ii) support services for the school, including transportation.

''(B) OPERATIONS AND MAINTENANCE EXPENDITURES.—Funds made available through a grant provided under this part may, at the discretion of the school board of the tribally controlled school with respect to which such grant is provided, be used to defray operations and maintenance expenditures for the school if any funds for the operation and maintenance of the school are allocated to the school under the provisions of any of the laws described in section 5205(a).

''(4) WAIVER OF FEDERAL TORT CLAIMS ACT.—Notwithstanding section 314 of the Department of the Interior and Related Agencies Appropriations Act, 1991 (Public Law 101-512), the Federal Tort Claims Act shall not apply to a program operated by a tribally controlled school if the program is not funded by the Federal agency. Nothing in the preceding sentence shall be construed to apply to—

''(A) the employees of the school involved; and

''(B) any entity that enters into a contract with a grantee under this section.

''(b) LIMITATIONS.—

''(1) 1 GRANT PER TRIBE OR ORGANIZATION PER FISCAL YEAR.—Not more than 1 grant may be provided under this part with respect to any Indian tribe or tribal organization for any fiscal year.

''(2) NONSECTARIAN USE.—Funds made available through any grant provided under this part may not be used in connection with religious worship or sectarian instruction.

''(3) ADMINISTRATIVE COSTS LIMITATION.—Funds made available through any grant provided under this part may not be expended for administrative cost (as defined in section 1127(a) of the Education Amendments of 1978) in excess of the amount generated for such cost under section 1127 of such Act.

''(c) LIMITATION ON TRANSFER OF FUNDS AMONG SCHOOL SITES.—

''(1) IN GENERAL.—In the case of a recipient of a grant under this part that operates schools at more than 1 school site, the grant recipient may expend not more than the lesser of—

''(A) 10 percent of the funds allocated for such school site, under section 1127 of the Education Amendments of 1978; or

''(B) $400,000 of such funds;

at any other school site.

''(2) DEFINITION OF SCHOOL SITE.—In this subsection, the term 'school site' means the physical location and the facilities of an elementary or secondary educational or residential program operated by, or under contract or grant with, the Bureau for which a discrete student count is identified under the funding formula established under section 1126 of the Education Amendments of 1978.

''(d) NO REQUIREMENT TO ACCEPT GRANTS.—Nothing in this part may be construed—

''(1) to require a tribe or tribal organization to apply for or accept; or

''(2) to allow any person to coerce any tribe or tribal organization to apply for, or accept, a grant under this part to plan, conduct, and administer all of, or any portion of, any Bureau program. The submission of such applications and the timing of such applications shall be strictly voluntary. Nothing in this part may be construed as allowing or requiring the grant recipient to make any grant under this part to any other entity.

''(e) NO EFFECT ON FEDERAL RESPONSIBILITY.—Grants provided under this part shall not terminate, modify, suspend, or reduce the responsibility of the Federal Government to provide an educational program.

''(f) RETROCESSION.—

''(1) IN GENERAL.—Whenever a tribal governing body requests retrocession of any program for which assistance is provided under this part, such retrocession shall become effective on a date specified by the Secretary that is not later than 120 days after the date on which the tribal governing body requests the retrocession. A later date may be specified if mutually agreed upon by the Secretary and the tribal governing body. If such a program is retroceded, the Secretary shall provide to any Indian tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of

funding provided under this part prior to the retrocession.

''(2) STATUS AFTER RETROCESSION.—The tribe requesting retrocession shall specify whether the retrocession relates to status as a Bureau operated school or as a school operated under a contract under the Indian Self-Determination Act.

''(3) TRANSFER OF EQUIPMENT AND MATERIALS.—Except as otherwise determined by the Secretary, the tribe or tribal organization operating the program to be retroceded shall transfer to the Secretary (or to the tribe or tribal organization that will operate the program as a contract school) the existing equipment and materials that were acquired—

''(A) with assistance under this part; or

''(B) upon assumption of operation of the program under this part if the school was a Bureau funded school under title XI of the Education Amendments of 1978 before receiving assistance under this part.

''(g) PROHIBITION OF TERMINATION FOR ADMINISTRATIVE CONVENIENCE.—Grants provided under this part may not be terminated, modified, suspended, or reduced solely for the convenience of the administering agency.

''SEC. 5205. COMPOSITION OF GRANTS.

''(a) IN GENERAL.—The funds made available through a grant provided under this part to an Indian tribe or tribal organization for any fiscal year shall consist of—

''(1) the total amount of funds allocated for such fiscal year under sections 1126 and 1127 of the Education Amendments of 1978 with respect to the tribally controlled school eligible for assistance under this part that is operated by such Indian tribe or tribal organization, including funds provided under such sections, or under any other provision of law, for transportation costs for such school;

''(2) to the extent requested by such Indian tribe or tribal organization, the total amount of funds provided from operations and maintenance accounts and, notwithstanding section 105 of the Indian Self-Determination and Education Assistance Act or any other provision of law, other facilities accounts for such school for such fiscal year (including accounts for facilities referred to in section 1125(d) of the Education Amendments of 1978 or any other law); and

''(3) the total amount of funds that are allocated to such school for such fiscal year under—

''(A) title I of the Elementary and Secondary Education Act of 1965;

''(B) the Individuals with Disabilities Education Act; and

''(C) any other Federal education law.

''(b) SPECIAL RULES.—

''(1) IN GENERAL.—

''(A) APPLICABLE PROVISIONS.—Funds allocated to a tribally controlled school by reason of paragraph (1) or (2) of subsection (a) shall be subject to the provisions of this part and shall not be subject to any additional restriction, priority, or limitation that is imposed by the Bureau with respect to funds provided under—

''(i) title I of the Elementary and Secondary Education Act of 1965;

''(ii) the Individuals with Disabilities Education Act; or

''(iii) any Federal education law other than title XI of the Education Amendments of 1978.

''(B) OTHER BUREAU REQUIREMENTS.—Indian tribes and tribal organizations to which grants are provided under this part, and tribally controlled schools for which such grants are provided, shall not be subject to any requirements, obligations, restrictions, or limitations imposed by the Bureau that would otherwise apply solely by reason of the receipt of funds provided under any law referred to in clause (i), (ii) or (iii) of subparagraph (A).

''(2) SCHOOLS CONSIDERED CONTRACT SCHOOLS.—Tribally controlled schools for which grants are provided under this part shall be treated as contract schools for the purposes of allocation of funds under sections 1125(d), 1126, and 1127 of the Education Amendments of 1978.

''(3) SCHOOLS CONSIDERED BUREAU SCHOOLS.—Tribally controlled schools for which grants are provided under this part shall be treated as Bureau schools for the purposes of allocation of funds provided under—

''(A) title I of the Elementary and Secondary Education Act of 1965;

''(B) the Individuals with Disabilities Education Act; and

''(C) any other Federal education law, that are distributed through the Bureau.

''(4) ACCOUNTS; USE OF CERTAIN FUNDS.—

''(A) SEPARATE ACCOUNT.—Notwithstanding section 5204(a)(2), with respect to funds from facilities improvement and repair, alteration and renovation (major or minor), health and safety, or new construction accounts included in the grant provided under section 5204(a), the grant recipient shall maintain a separate account for such funds. At the end of the period designated for the work covered by the funds received, the grant recipient shall submit to the Secretary a separate accounting of the work done and the funds expended. Funds received from those accounts may only be used for the purpose for which the funds were appropriated and for the work encompassed by the application or submission for which the funds were received.

''(B) REQUIREMENTS FOR PROJECTS.—

''(i) REGULATORY REQUIREMENTS.—With respect to a grant to a tribally controlled school under this part for new construction or facilities improvements and repair in excess of $100,000, such grant shall be subject to the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in part 12 of title 43, Code of Federal Regulations.

''(ii) EXCEPTION.—Notwithstanding clause (i), grants described in such clause shall not be subject to section 12.61 of title 43, Code of Federal Regulations. The Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed.

''(iii) APPLICATIONS.—In considering applications for a grant described in clause (i), the Secretary shall consider whether the Indian tribe or tribal organization involved would be deficient in assuring that the construction projects under the proposed grant conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required under section 1124 of the Education Amendments of 1978 (25 U.S.C. 2005(a)) with respect to organizational and financial management capabilities.

''(iv) DISPUTES.—Any disputes between the Secretary and any grantee concerning a grant described in clause (i) shall be subject to the dispute provisions contained in section 5209(e).

''(C) NEW CONSTRUCTION.—Notwithstanding subparagraph (A), a school receiving a grant under this part for facilities improvement and repair may use such grant funds for new construction if the tribal governing body or tribal organization that submits the application for the grant provides funding for the new construction equal to at least 25 percent of the total cost of such new construction.

''(D) PERIOD.—Where the appropriations measure under which the funds described in subparagraph (A) are made available or the application submitted for the funds does not stipulate a period for the work covered by the funds, the Secretary and the grant recipient shall consult and determine such a period prior to the transfer of the funds. A period so determined may be extended upon mutual agreement of the Secretary and the grant recipient.

''(5) ENFORCEMENT OF REQUEST TO INCLUDE FUNDS.—

''(A) IN GENERAL.—If the Secretary fails to carry out a request filed by an Indian tribe or tribal organization to include in such tribe or organization's grant under this part the funds described in subsection (a)(2) within 180 days after the filing of the request, the Secretary shall—

''(i) be deemed to have approved such request; and

''(ii) immediately upon the expiration of such 180-day period amend the grant accordingly.

''(B) RIGHTS.—A tribe or organization described in subparagraph (A) may enforce its rights under subsection (a)(2) and this paragraph, including rights relating to any denial or failure to act on such tribe's or organization's request, pursuant to the dispute authority described in section 5209(e).

''SEC. 5206. ELIGIBILITY FOR GRANTS.

''(a) RULES.—

''(1) IN GENERAL.—A tribally controlled school is eligible for assistance under this part if the school—

''(A) on April 28, 1988, was a contract school under title XI of the Education Amendments of 1978 and the tribe or tribal organization operating the school submits to the Secretary a written notice of election to receive a grant under this part;

''(B) was a Bureau operated school under title XI of the Education Amendments of 1978 and has met the requirements of subsection (b);

''(C) is not a Bureau funded school, but has met the requirements of subsection (c); or

''(D) is a school with respect to which an election has been made under paragraph (2) and that has met the requirements of subsection (b).

''(2) NEW SCHOOLS.—Notwithstanding paragraph (1), for purposes of determining eligibility for assistance under this part, any application that has been submitted under the Indian Self-Determination and Education Assistance Act by an Indian tribe or tribal organization for a school that is not in operation on the date of enactment of the Native American Education Improvement Act of 2001 shall be reviewed under the guidelines and regulations for applications submitted under the Indian Self-Determination and Education Assistance Act that were in effect at the time the application was submitted, unless the Indian tribe or tribal organization elects to have the application reviewed under the provisions of subsection (b).

''(b) ADDITIONAL REQUIREMENTS FOR BUREAU FUNDED SCHOOLS AND CERTAIN ELECTING SCHOOLS.—

''(1) BUREAU FUNDED SCHOOLS.—A school that was a Bureau funded school under title XI of the Education Amendments of 1978 on the date of enactment of the Native American Education Improvement Act of 2001, and any school with respect to which an election is made under subsection (a)(2), meets the requirements of this subsection if—

''(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting that the Secretary—

''(i) transfer operation of the school to the Indian tribe or tribal organization, if the Indian tribe or tribal organization is not already operating the school; and

''(ii) make a determination as to whether the school is eligible for assistance under this part; and

''(B) the Secretary makes a determination that the school is eligible for assistance under this part.

''(2) CERTAIN ELECTING SCHOOLS.—

''(A) DETERMINATION.—By not later than 120 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine—

''(i) in the case of a school that is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization; and

''(ii) whether the school is eligible for assistance under this part.

''(B) CONSIDERATION; TRANSFERS AND ELIGIBILITY.—In considering applications submitted under paragraph (1)(A), the Secretary—

''(i) shall transfer operation of the school to the Indian tribe or tribal organization, if the tribe or tribal organization is not already operating the school; and

''(ii) shall determine that the school is eligible for assistance under this part, unless the Secretary finds by clear and convincing evidence that the services to be provided by the Indian tribe or tribal organization will be deleterious to the welfare of the Indians served by the school and will not carry out the purposes of this Act.

''(C) CONSIDERATION; POSSIBLE DEFICIENCIES.—In considering applications submitted under paragraph (1)(A), the Secretary shall only consider whether the Indian tribe or tribal organization would be deficient in operating the school with respect to—

''(i) equipment;

''(ii) bookkeeping and accounting procedures;

''(iii) ability to adequately manage a school; or

''(iv) adequately trained personnel.

''(c) ADDITIONAL REQUIREMENTS FOR A SCHOOL THAT IS NOT A BUREAU FUNDED SCHOOL.—

''(1) IN GENERAL.—A school that is not a Bureau funded school under title XI of the Education Amendments of 1978 meets the requirements of this subsection if—

''(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting a determination by the Secretary as to whether the school is eligible for assistance under this part; and

''(B) the Secretary makes a determination that the school is eligible for assistance under this part.

''(2) DEADLINE FOR DETERMINATION BY SECRETARY.—

''(A) DETERMINATION.—By not later than 180 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine whether the school is eligible for assistance under this part.

''(B) FACTORS.—In making the determination under subparagraph (A), the Secretary shall give equal consideration to each of the following factors:

''(i) With respect to the applicant's proposal—

''(I) the adequacy of facilities or the potential to obtain or provide adequate facilities;

''(II) geographic and demographic factors in the affected areas;

''(III) adequacy of the applicant's program plans;

''(IV) geographic proximity of comparable public education; and

''(V) the needs to be met by the school, as expressed by all affected parties, including but not limited to students, families, tribal governments at both the central and local levels, and school organizations.

''(ii) With respect to all education services already available—

''(I) geographic and demographic factors in the affected areas;

''(II) adequacy and comparability of programs already available;

''(III) consistency of available programs with tribal education codes or tribal legislation on education; and

''(IV) the history and success of those services for the proposed population to be served, as determined from all factors including, if relevant, standardized examination performance.

''(C) EXCEPTION REGARDING PROXIMITY.—The Secretary may not make a determination under this paragraph that is primarily based upon the geographic proximity of comparable public education.

''(D) INFORMATION ON FACTORS.—An application submitted under paragraph (1)(A) shall include information on the factors described in subparagraph (B)(i), but the applicant may also provide the Secretary such information relative to the factors described in subparagraph (B)(ii) as the applicant considers to be appropriate.

''(E) TREATMENT OF LACK OF DETERMINATION.—If the Secretary fails to make a determination under subparagraph (A) with respect to an application within 180 days after the date on which the Secretary received the application—

''(i) the Secretary shall be deemed to have made a determination that the tribally controlled school is eligible for assistance under this part; and

''(ii) the grant shall become effective 18 months after the date on which the Secretary received the application, or on an earlier date, at the Secretary's discretion.

''(d) FILING OF APPLICATIONS AND REPORTS.—

''(1) IN GENERAL.—Each application or report submitted to the Secretary under this part, and any amendment to such application or report, shall be filed with the education line officer designated by the Director of the Office of Indian Education Programs of the Bureau of Indian Affairs. The date on which the filing occurs shall, for purposes of this part, be treated as the date on which the application, report, or amendment was submitted to the Secretary.

''(2) SUPPORTING DOCUMENTATION.—

''(A) IN GENERAL.—Any application that is submitted under this part shall be accompanied by a document indicating the action taken by the appropriate tribal governing body concerning authorizing such application.

''(B) AUTHORIZATION ACTION.—The Secretary shall administer the requirement of subparagraph (A) in a manner so as to ensure that the tribe involved, through the official action of the tribal governing body, has approved of the application for the grant.

''(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as making a tribal governing body (or tribe) that takes an action described in subparagraph (A) a party to the grant (unless the tribal governing body or the tribe is the grantee) or as making the tribal governing body or tribe financially or programmatically responsible for the actions of the grantee.

''(3) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed as making a tribe act as a surety for the performance of a grantee under a grant under this part.

''(4) CLARIFICATION.—The provisions of paragraphs (2) and (3) shall be construed as a clarification of policy in existence on the date of enactment of the Native American Education Improvement Act of 2001 with respect to grants under this part and shall not be construed as altering such policy or as a new policy.

''(e) EFFECTIVE DATE FOR APPROVED APPLICATIONS.—Except as provided in subsection (c)(2)(E), a grant provided under this part shall be made, and any transfer of the operation of a Bureau school made under subsection (b) shall become effective, beginning on the first day of the academic year succeeding the fiscal year in which the application for the grant or transfer is made, or on an earlier date determined by the Secretary.

''(f) DENIAL OF APPLICATIONS.—

''(1) IN GENERAL.—If the Secretary disapproves a grant under this part, disapproves the transfer of operations of a Bureau school under subsection (b), or determines that a school is not eligible for assistance under this part, the Secretary shall—

''(A) state the objections in writing to the tribe or tribal organization involved within the allotted time;

''(B) provide assistance to the tribe or tribal organization to cure all stated objections;

''(C) at the request of the tribe or tribal organization, provide to the tribe or tribal organization a hearing on the record regarding the refusal or determination involved, under the same rules and regulations as apply under the Indian Self-Determination and Education Assistance Act; and

''(D) provide to the tribe or tribal organization an opportunity to appeal the decision resulting from the hearing.

''(2) TIMELINE FOR RECONSIDERATION OF AMENDED APPLICATIONS.—The Secretary shall reconsider any amended application submitted under this part within 60 days after the amended application is submitted to the Secretary and shall submit the determinations of the Secretary with respect to such reconsideration to the tribe or the tribal organization.

''(g) REPORT.—The Bureau shall prepare and submit to Congress an annual report on all applications received, and actions taken (including the costs associated with such actions), under this section on the same date as the date on which the President is required to submit to Congress a budget of the United States Government under section 1105 of title 31, United States Code.

''SEC. 5207. DURATION OF ELIGIBILITY DETERMINATION.

''(a) IN GENERAL.—If the Secretary determines that a tribally controlled school is eligible for assistance under this part, the eligibility determination shall remain in effect until the determination is revoked by the Secretary, and the requirements of subsection (b) or (c) of section 5206, if applicable, shall be considered to have been met with respect to such school until the eligibility determination is revoked by the Secretary.

''(b) ANNUAL REPORTS.—

''(1) IN GENERAL.—Each recipient of a grant provided under this part for a school shall prepare an annual report concerning the school involved, the contents of which shall be limited to—

''(A) an annual financial statement reporting revenue and expenditures as defined by the cost accounting standards established by the grant recipient;

''(B) a biannual financial audit conducted pursuant to the standards of chapter 71 of title 31, United States Code;

''(C) a biannual compliance audit of the procurement of personal property during the period for which the report is being prepared that shall be in compliance with written procurement standards that are developed by the local school board;

''(D) an annual submission to the Secretary containing information on the number of students served and a brief description of programs offered through the grant; and

''(E) a program evaluation conducted by an impartial evaluation review team, to be based on the standards established for purposes of subsection (c)(1)(A)(ii).

''(2) EVALUATION REVIEW TEAMS.—In appropriate cases, representatives of other tribally controlled schools and representatives of tribally controlled community colleges shall be members of the evaluation review teams.

''(3) EVALUATIONS.—In the case of a school that is accredited, the evaluations required under this subsection shall be conducted at intervals under the terms of the accreditation.

''(4) SUBMISSION OF REPORT.—

''(A) TO TRIBAL GOVERNING BODY.—Upon completion of the annual report required under paragraph (1), the recipient of the grant shall send (via first class mail, return receipt requested) a copy of such annual report to the tribal governing body.

''(B) TO SECRETARY.—Not later than 30 days after receiving written confirmation that the tribal governing body has received the report sent pursuant to subparagraph (A), the recipient of the grant shall send a copy of the report to the Secretary.

''(c) REVOCATION OF ELIGIBILITY.—

''(1) IN GENERAL.—

''(A) NONREVOCATION CONDITIONS.—The Secretary shall not revoke a determination that a school is eligible for assistance under this part if—

''(i) the Indian tribe or tribal organization submits the reports required under subsection (b) with respect to the school; and

''(ii) at least 1 of the following conditions applies with respect to the school:

''(I) The school is certified or accredited by a State certification or regional accrediting association or is a candidate in good standing for such certification or accreditation under the rules of the State certification or regional accrediting association, showing that credits achieved by the students within the education programs of the school are, or will be, accepted at grade level by a State certified or regionally accredited institution.

''(II) The Secretary determines that there is a reasonable expectation that the certification or accreditation described in subclause (I), or candidacy in good standing for such certification or accreditation, will be achieved by the school within 3 years and that the program offered by the school is beneficial to Indian students.

''(III) The school is accredited by a tribal department of education if such accreditation is accepted by a generally recognized State certification or regional accrediting agency.

''(IV) The school accepts the standards issued under section 1121 of the Education Amendments of 1978 and an impartial evaluator chosen by the grant recipient conducts a program evaluation for the school under this section in conformance with the regulations pertaining to Bureau operated schools, but no grant recipient shall be required to comply with the standards to a greater degree than a comparable Bureau operated school.

''(V)(aa) Every 3 years, an impartial evaluator agreed upon by the Secretary and the grant recipient conducts evaluations of the school, and the school receives a positive assessment under such evaluations. The evaluations are conducted under standards adopted by a contractor under a contract for the school entered into under the Indian Self-Determination and Education Assistance Act (or revisions of such standards agreed to by the Secretary and the grant recipient) prior to the date of enactment of the Native American Education Improvement Act of 2001.

''(bb) If the Secretary and a grant recipient other than a tribal governing body fail to agree on such an evaluator, the tribal governing body shall choose the evaluator or perform the evaluation. If the Secretary and a grant recipient that is a tribal governing body fail to agree on such an evaluator, item (aa) shall not apply.

''(B) STANDARDS.—The choice of standards employed for the purposes of subparagraph (A)(ii) shall be consistent with section 1121(e) of the Education Amendments of 1978.

''(2) NOTICE REQUIREMENTS FOR REVOCATION.—The Secretary shall not revoke a determination that a school is eligible for assistance under this part, or reassume control of a school that was a Bureau school prior to approval of an application submitted under section 5206(b)(1)(A), until the Secretary—

''(A) provides notice, to the tribally controlled school involved and the appropriate tribal governing body (within the meaning of section 1140 of the Education Amendments of 1978) for the tribally controlled school, which states—

''(i) the specific deficiencies that led to the revocation or reassumption determination; and

''(ii) the actions that are needed to remedy such deficiencies; and

''(B) affords such school and governing body an opportunity to carry out the remedial actions.

''(3) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical assistance to enable the school and governing body to carry out such remedial actions.

''(4) HEARING AND APPEAL.—In addition to notice and technical assistance under this subsection, the Secretary shall provide to the school and governing body—

''(A) at the request of the school or governing body, a hearing on the record regarding the revocation or reassumption determination, to be conducted under the rules and regulations described in section 5206(f)(1)(C); and

''(B) an opportunity to appeal the decision resulting from the hearing.

''(d) APPLICABILITY OF SECTION PURSUANT TO ELECTION UNDER SECTION 5209(b).—With respect to a tribally controlled school that receives assistance under this part pursuant to an election made under section 5209(b)—

''(1) subsection (b) shall apply; and

''(2) the Secretary may not revoke eligibility for assistance under this part except in conformance with subsection (c).

''SEC. 5208. PAYMENT OF GRANTS; INVESTMENT OF FUNDS; STATE PAYMENTS TO SCHOOLS.

''(a) PAYMENTS.—

''(1) MANNER OF PAYMENTS.—

''(A) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall make payments to grant recipients under this part in 2 payments, of which—

''(i) the first payment shall be made not later than July 15 of each year in an amount equal to 80 percent of the amount that the grant recipient was entitled to receive during the preceding academic year; and

''(ii) the second payment, consisting of the remainder to which the grant recipient was entitled for the academic year, shall be made not later than December 1 of each year.

''(B) EXCESS FUNDING.—In a case in which the amount provided to a grant recipient under subparagraph (A)(i) is in excess of the amount that the recipient is entitled to receive for the academic year involved, the recipient shall return to the Secretary such excess amount. The amount returned to the Secretary under this subparagraph shall be distributed equally to all schools in the system.

''(2) NEWLY FUNDED SCHOOLS.—For any school for which no payment under this part was made from Bureau funds in the academic year preceding the year for which the payments are being made, full payment of the amount computed for the school for the first academic year of eligibility under this part shall be made not later than December 1 of the academic year.

''(3) LATE FUNDING.—With regard to funds for grant recipients under this part that become available for obligation on October 1 of the fiscal year for which such funds are appropriated, the Secretary shall make payments to the grant recipients not later than December 1 of the fiscal year, except that operations and maintenance funds shall be forward funded and shall be available for obligation not later than July 15 and December 1 of each fiscal year.

''(4) APPLICABILITY OF CERTAIN TITLE 31 PROVISIONS.—The provisions of chapter 39 of title 31, United States Code, shall apply to the payments required to be made under paragraphs (1), (2), and (3).

''(5) RESTRICTIONS.—Payments made under paragraphs (1), (2), and (3) shall be subject to any restriction on amounts of payments under this part that is imposed by a continuing resolution or other Act appropriating the funds involved.

''(b) INVESTMENT OF FUNDS.—

''(1) TREATMENT OF INTEREST AND INVESTMENT INCOME.—Notwithstanding any other provision of law, any interest or investment income that accrues on or is derived from any funds provided under this part for a school after such funds are paid to an Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this part shall be the property of the Indian tribe or tribal organization. The interest or income shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance to be provided, under any provision of Federal law.

''(2) PERMISSIBLE INVESTMENTS.—Funds provided under this part may be invested by an Indian tribe or tribal organization, as approved by the grantee, before such funds are expended for the objectives of this part if such funds are—

''(A) invested by the Indian tribe or tribal organization only—

''(i) in obligations of the United States;

''(ii) in obligations or securities that are guaranteed or insured by the United States; or

''(iii) in mutual (or other) funds that are registered with the Securities and Exchange Commission and that only invest in obligations of the United States, or securities that

are guaranteed or insured by the United States; or

''(B) deposited only into accounts that are insured by an agency or instrumentality of the United States, or are fully supported by collateral to ensure protection of the funds, even in the event of a bank failure.

''(c) RECOVERIES.—Funds received under this part shall not be taken into consideration by any Federal agency for the purposes of making underrecovery and overrecovery determinations for any other funds, from whatever source derived.

''(d) PAYMENTS BY STATES.—

''(1) IN GENERAL.—With respect to a school that receives assistance under this part, a State shall not—

''(A) take into account the amount of such assistance in determining the amount of funds that such school is eligible to receive under applicable State law; or

''(B) reduce any State payments that such school is eligible to receive under applicable State law because of the assistance received by the school under this part.

''(2) VIOLATIONS.—

''(A) IN GENERAL.—Upon receipt of any information from any source that a State is in violation of paragraph (1), the Secretary shall immediately, but in no case later than 90 days after the receipt of such information, conduct an investigation and make a determination of whether such violation has occurred.

''(B) DETERMINATION.—If the Secretary makes a determination under subparagraph (A) that a State has violated paragraph (1), the Secretary shall inform the Secretary of Education of such determination and the basis for the determination. The Secretary of Education shall, in an expedient manner, pursue penalties under paragraph (3) with respect to the State.

''(3) PENALTIES.—A State determined to have violated paragraph (1) shall be subject to penalties similar to the penalties described in section 8809(e) of the Elementary and Secondary Education Act of 1965 for a violation of title VIII of such Act.

''SEC. 5209. APPLICATION WITH RESPECT TO INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

''(a) CERTAIN PROVISIONS TO APPLY TO GRANTS.—The following provisions of the Indian Self-Determination and Education Assistance Act (and any subsequent revisions thereto or renumbering thereof), shall apply to grants provided under this part and the schools funded under such grants:

''(1) Section 5(f) (relating to single agency audits).

''(2) Section 6 (relating to criminal activities; penalties).

''(3) Section 7 (relating to wage and labor standards).

''(4) Section 104 (relating to retention of Federal employee coverage).

''(5) Section 105(f) (relating to Federal property).

''(6) Section 105(k) (relating to access to Federal sources of supply).

''(7) Section 105(l) (relating to lease of facility used for administration and delivery of services).

''(8) Section 106(e) (relating to limitation on remedies relating to cost allowances).

''(9) Section 106(i) (relating to use of funds for matching or cost participation requirements).

''(10) Section 106(j) (relating to allowable uses of funds).

''(11) The portions of section 108(c) that consist of model agreements provisions 1(b)(5) (relating to limitations of costs), 1(b)(7) (relating to records and monitoring), 1(b)(8) (relating to property), and 1(b)(9) (relating to availability of funds).

''(12) Section 109 (relating to reassumption).

''(13) Section 111 (relating to sovereign immunity and trusteeship rights unaffected).

''(b) ELECTION FOR GRANT IN LIEU OF CONTRACT.—

''(1) IN GENERAL.—A contractor that carries out an activity to which this part applies and who has entered into a contract under the Indian Self-Determination and Education Assistance Act that is in effect on the date of enactment of the Native American Education Improvement Act of 2001 may, by giving notice to the Secretary, elect to receive a grant under this part in lieu of such contract and to have the provisions of this part apply to such activity.

''(2) EFFECTIVE DATE OF ELECTION.—Any election made under paragraph (1) shall take effect on the first day of July immediately following the date of such election.

''(3) EXCEPTION.—In any case in which the first day of July immediately following the date of an election under paragraph (1) is less than 60 days after such election, such election shall not take effect until the first day of July of year following the year in which the election is made.

''(c) NO DUPLICATION.—No funds may be provided under any contract entered into under the Indian Self-Determination and Education Assistance Act to pay any expenses incurred in providing any program or services if a grant has been made under this part to pay such expenses.

''(d) TRANSFERS AND CARRYOVERS.—

''(1) BUILDINGS, EQUIPMENT, SUPPLIES, MATERIALS.—A tribe or tribal organization assuming the operation of—

''(A) a Bureau school with assistance under this part shall be entitled to the transfer or use of buildings, equipment, supplies, and materials to the same extent as if the tribe or tribal organization were contracting under the Indian Self-Determination and Education Assistance Act; or

''(B) a contract school with assistance under this part shall be entitled to funding for improvements, alterations, replacement and code compliance in facilities where programs approved under this part were used in the operation of the contract school to the same extent as if it were contracting under the Indian Self-Determination and Education Assistance Act and to the transfer or use of buildings, equipment, supplies, and materials that were used in the operation of the contract school to the same extent as if the tribe or tribal organization were contracting under such Act.

''(2) FUNDS.—Any tribe or tribal organization that assumes operation of a Bureau school with assistance under this part and any tribe or tribal organization that elects to operate a school with assistance under this part rather than to continue to operate the school as a contract school shall be entitled to any funds that would remain available from the previous fiscal year if such school remained a Bureau school or was operated as a contract school, respectively.

''(e) EXCEPTIONS, PROBLEMS, AND DISPUTES.—

''(1) IN GENERAL.—Any exception or problem cited in an audit conducted pursuant to section 5207(b)(1)(B), any dispute regarding a grant authorized to be made pursuant to this part or any modification of such grant, and any dispute involving an administrative cost grant under section 1127 of the Education Amendments of 1978, shall be administered under the provisions governing such exceptions, problems, or disputes described in this paragraph in the case of contracts under the Indian Self-Determination and Education Assistance Act.

''(2) ADMINISTRATIVE APPEALS.—The Equal Access to Justice Act (as amended) and the amendments made by such Act shall apply to an administrative appeal filed after September 8, 1988, by a grant recipient regarding a grant provided under this part, including an administrative cost grant.

''SEC. 5210. ROLE OF THE DIRECTOR.

''Applications for grants under this part, and all modifications to the applications, shall be reviewed and approved by personnel under the direction and control of the Director of the Office of Indian Education Programs. Reports required under this part shall be submitted to education personnel under the direction and control of the Director of such Office.

''SEC. 5211. REGULATIONS.

''The Secretary is authorized to issue regulations relating to the discharge of duties specifically assigned to the Secretary in this part. For all other matters relating to the details of planning, developing, implementing, and evaluating grants under this part, the Secretary shall not issue regulations. Regulations issued pursuant to this part shall not have the standing of a Federal statute for purposes of judicial review.

''SEC. 5212. THE TRIBALLY CONTROLLED GRANT SCHOOL ENDOWMENT PROGRAM.

''(a) IN GENERAL.—

''(1) ESTABLISHMENT.—Each school receiving a grant under this part may establish, at a federally insured financial institution, a trust fund for the purposes of this section.

''(2) DEPOSITS AND USE.—The school may provide—

''(A) for deposit into the trust fund, only funds from non-Federal sources, except that the interest on funds received from grants provided under this part may be used for that purpose;

''(B) for deposit into the trust fund, any earnings on funds deposited in the fund; and

''(C) for the sole use of the school any noncash, in-kind contributions of real or personal property, which may at any time be used, sold, or otherwise disposed of.

''(b) INTEREST.—Interest from the fund established under subsection (a) may periodically be withdrawn and used, at the discretion of the school, to defray any expenses associated with the operation of the school consistent with the purposes of this Act.

''SEC. 5213. DEFINITIONS.

''In this part:

''(1) BUREAU.—The term 'Bureau' means the Bureau of Indian Affairs of the Department of the Interior.

''(2) ELIGIBLE INDIAN STUDENT.—The term 'eligible Indian student' has the meaning given such term in section 1126(a) of the Education Amendments of 1978.

''(3) INDIAN.—The term 'Indian' means a member of an Indian tribe, and includes individuals who are eligible for membership in a tribe, and the child or grandchild of such an individual.

''(4) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including an Alaska Native Village Corporation or Regional Corporation (as defined in or established pursuant to the Alaskan Native Claims Settlement Act), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

''(5) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State or such combination of school districts or counties as are recognized in a State as an administrative agency for the State's public elementary schools or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

''(6) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(7) TRIBAL GOVERNING BODY.—The term 'tribal governing body' means, with respect to any school that receives assistance under this Act, the recognized governing body of the Indian tribe involved.

''(8) TRIBAL ORGANIZATION.—

''(A) IN GENERAL.—The term 'tribal organization' means—

''(i) the recognized governing body of any Indian tribe; or

''(ii) any legally established organization of Indians that—

''(I) is controlled, sanctioned, or chartered by such governing body or is democratically elected by the adult members of the Indian community to be served by such organization; and

''(II) includes the maximum participation of Indians in all phases of the organization's activities.

''(B) AUTHORIZATION.—In any case in which a grant is provided under this part to an organization to provide services through a tribally controlled school benefiting more than 1 Indian tribe, the approval of the governing bodies of Indian tribes representing 80 percent of the students attending the tribally controlled school shall be considered a sufficient tribal authorization for such grant.

''(9) TRIBALLY CONTROLLED SCHOOL.—The term 'tribally controlled school' means a school that—

''(A) is operated by an Indian tribe or a tribal organization, enrolling students in kindergarten through grade 12, including a preschool;

''(B) is not a local educational agency; and

''(C) is not directly administered by the Bureau of Indian Affairs.''.

By Mr. CAMPBELL (for himself, Mr. INOUYE, and Mr. MCCAIN):

S. 212. A bill to amend the Indian Health Care Improvement Act to revise and extend such Act; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, I am pleased to be joined today by the Vice Chairman of the Committee on Indian Affairs, Senator DANIEL K. INOUYE, and former Chairman, Senator JOHN MCCAIN in introducing important legislation to reauthorize the Indian Health Care Improvement Act of 1976, the ''IHCIA'' or the ''Act''.

The United States first provided health services to Indians in 1824 as part of the War Department's handling of Indian affairs. In 1849 this responsibility went to the newly-created Department of the Interior where it rested until 1955 when it was transferred to the Public Health Service's Indian Health Agency.

The evolution of the Indian Health Service from an ad hoc service provided to Indians by the BIA to a specialized agency within the Department of Health and Human Services was completed with the passage of the Indian Health Care Improvement Act of 1976.

In 1970, President Nixon issued his now-famous ''Special Message to Congress on Indian Affairs'' laying out the rationale for a more enlightened Federal Indian Policy: Indian Self-Determination.

Self-Determination is the core principle embodied in the IHCIA the main purposes of which are to improve the health status of Indian people and to increase the number of Indians involved in the health professions.

The Indian Self-Determination and Education Assistance Act of 1975, the IHCIA, and the amendments to each over the years can all be traced directly to the fundamental changes first proposed in 1970.

I am proud to say that legislation I proposed in the 106th Congress, the Indian Tribal Self-Governance Amendments of 2000, were enacted into law as Public Law 106–260. The bill we introduce today builds on this new law in important respects.

By introducing the IHCIA reauthorization bill, we re-affirm Indian Self-Determination and the principles of the IHCIA (1) that the provision of Federal health services is consistent with the federal-tribal relationship; (2) that a goal of the U.S. is to provide the quantity and quality of services to raise the health status of Indians; (3) that Indian participation in the planning and management of health services should be maximized; and (4) that the numbers of American Indians and Alaska Natives trained in health professions be maximized.

Before the passage of the Act in 1976 the mortality rate for Indian infants was 25 percent higher than that of non-Indian babies. The death rates for mothers was 82 percent higher and the mortality rates from infectious disease-causing diarrhea and dehydration was 138 percent greater.

Today we can see marked improvements. Infant mortality rates have been reduced by 54 percent, maternal mortality rates have been reduced by 65 percent, tuberculosis mortality by 80 percent and overall mortality rates have been reduced by 42 percent.

While encouraging, these statistics mask the fact that the health status of Native people in America is still poor and below that of all other racial and ethnic groups.

While we will continue to push forward on all fronts in seeking to improve Indian health services, I believe that there are three emergent issues that we need to address; urban Indian health care; Indian health facilities construction needs; and the booming problem of diabetes.

Undoubtedly the 2000 decennial census will likely show what past counts have shown—that more than one-half of the 2.3 million American Indians and Alaska Natives reside off-reservation and are referred to as ''urban Indians.'' Though the health services framework that now exists has slowly begun to acknowledge this trend, I am concerned that urban Indian health care needs require a more focused and vigorous approach.

Another problem that must be addressed is the growing backlog in health care facilities construction. Recent estimates show that there is some $900 million in unmet facilities needs. The dogged approach to eliminating this backlog by relying on federal appropriations will not work, and I strongly believe that innovative proposals need to be made, refined and perfected in order to accomplish our common goal.

I am heartened by the cooperative federal-tribal efforts in making the Joint Venture Program a success and look forward to building on this success in the coming years.

Ailments of affluence continue to seep into Native communities and erode the quality of life and very social fabric that holds these communities together. Alcohol and substance abuse continue to take a heavy toll and diabetes is reaching alarmingly high rates. Most troubling is the increasing obesity and diabetes that is occurring with alarming frequency in Native youngsters.

It is now time to make the extra effort to look at the positive things we have accomplished and build upon them.

This bill is a step in the right direction on these and other health matters. The bill we introduced last year was the product of months-long consultations by a group of very dedicated individuals consisting of Indian Tribal leaders, health and legal professionals, and representatives of the private and public health care sectors. The group reviewed existing law and has proposed changes to improve the current system by stressing local flexibility and choice, and making it more responsive to the health needs of Indian people.

I am hopeful that in moving forward this year we can draw from the hearing record built after no fewer than five hearings on the bill that was introduced in the 106th Congress, S. 2526.

I urge my colleagues to join me in supporting this key measure. I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Indian Health Care Improvement Act Reauthorization of 2001''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—REAUTHORIZATION AND REVISIONS OF THE INDIAN HEALTH CARE IMPROVEMENT ACT

SEC. 101. AMENDMENT TO THE INDIAN HEALTH CARE IMPROVEMENT ACT.

The Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended to read as follows:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Indian Health Care Improvement Act'.

''(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

''SEC. 2. FINDINGS.

''Congress makes the following findings:

''(1) Federal delivery of health services and funding of tribal and urban Indian health programs to maintain and improve the health of the Indians are consonant with and required by the Federal Government's historical and unique legal relationship with the American Indian people, as reflected in the Constitution, treaties, Federal laws, and the course of dealings of the United States with Indian Tribes, and the United States' resulting government to government and trust responsibility and obligations to the American Indian people.

''(2) From the time of European occupation and colonization through the 20th century, the policies and practices of the United States caused or contributed to the severe health conditions of Indians.

''(3) Indian Tribes have, through the cession of over 400,000,000 acres of land to the United States in exchange for promises, often reflected in treaties, of health care secured a de facto contract that entitles Indians to health care in perpetuity, based on the moral, legal, and historic obligation of the United States.

''(4) The population growth of the Indian people that began in the later part of the 20th century increases the need for Federal health care services.

''(5) A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians, regardless of where they live, to be raised to the highest possible level, a level that is not less than that of the general population, and to provide for the maximum participation of Indian Tribes, tribal organizations, and urban Indian organizations in the planning, delivery, and management of those services.

''(6) Federal health services to Indians have resulted in a reduction in the prevalence and incidence of illnesses among, and unnecessary and premature deaths of, Indians.

''(7) Despite such services, the unmet health needs of the American Indian people remain alarmingly severe, and even continue to increase, and the health status of the Indians is far below the health status of the general population of the United States.

''(8) The disparity in health status that is to be addresses is formidable. In death rates for example, Indian people suffer a death rate for diabetes mellitus that is 249 percent higher than the death rate for all races in the United States, a pneumonia and influenza death rate that is 71 percent higher, a tuberculosis death rate that is 533 percent higher, and a death rate from alcoholism that is 627 percent higher.

''SEC. 3. DECLARATION OF HEALTH OBJECTIVES.

''Congress hereby declares that it is the policy of the United States, in fulfillment of its special trust responsibilities and legal obligations to the American Indian people—

''(1) to assure the highest possible health status for Indians and to provide all resources necessary to effect that policy;

''(2) to raise the health status of Indians by the year 2010 to at least the levels set forth in the goals contained within the Healthy People 2010, or any successor standards thereto;

''(3) in order to raise the health status of Indian people to at least the levels set forth in the goals contained within the Healthy People 2010, or any successor standards thereto, to permit Indian Tribes and tribal organizations to set their own health care priorities and establish goals that reflect their unmet needs;

''(4) to increase the proportion of all degrees in the health professions and allied and associated health professions awarded to Indians so that the proportion of Indian health professionals in each geographic service area is raised to at least the level of that of the general population;

''(5) to require meaningful, active consultation with Indian Tribes, Indian organizations, and urban Indian organizations to implement this Act and the national policy of Indian self-determination; and

''(6) that funds for health care programs and facilities operated by Tribes and tribal organizations be provided in amounts that are not less than the funds that are provided to programs and facilities operated directly by the Service.

''SEC. 4. DEFINITIONS.

''In this Act:

''(1) ACCREDITED AND ACCESSIBLE.—The term 'accredited and accessible', with respect to an entity, means a community college or other appropriate entity that is on or near a reservation and accredited by a national or regional organization with accrediting authority.

''(2) AREA OFFICE.—The term 'area office' mean an administrative entity including a program office, within the Indian Health Service through which services and funds are provided to the service units within a defined geographic area.

''(3) ASSISTANT SECRETARY.—The term 'Assistant Secretary' means the Assistant Secretary of the Indian Health Service as established under section 601.

''(4) CONTRACT HEALTH SERVICE.—The term 'contract health service' means a health service that is provided at the expense of the Service, Indian Tribe, or tribal organization by a public or private medical provider or hospital, other than a service funded under the Indian Self-Determination and Education Assistance Act or under this Act.

''(5) DEPARTMENT.—The term 'Department', unless specifically provided otherwise, means the Department of Health and Human Services.

''(6) FUND.—The terms 'fund' or 'funding' mean the transfer of monies from the Department to any eligible entity or individual under this Act by any legal means, including funding agreements, contracts, memoranda of understanding, Buy Indian Act contracts, or otherwise.

''(7) FUNDING AGREEMENT.—The term 'funding agreement' means any agreement to transfer funds for the planning, conduct, and

administration of programs, functions, services and activities to Tribes and tribal organizations from the Secretary under the authority of the Indian Self-Determination and Education Assistance Act.

''(8) HEALTH PROFESSION.—The term 'health profession' means allopathic medicine, family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy, chiropractic medicine, environmental health and engineering, and allied health professions, or any other health profession.

''(9) HEALTH PROMOTION; DISEASE PREVENTION.—The terms 'health promotion' and 'disease prevention' shall have the meanings given such terms in paragraphs (1) and (2) of section 203(c).

''(10) INDIAN.—The term 'Indian' and 'Indians' shall have meanings given such terms for purposes of the Indian Self-Determination and Education Assistance Act.

''(11) INDIAN HEALTH PROGRAM.—The term 'Indian health program' shall have the meaning given such term in section 110(a)(2)(A).

''(12) INDIAN TRIBE.—The term 'Indian tribe' shall have the meaning given such term in section 4(e) of the Indian Self Determination and Education Assistance Act.

''(13) RESERVATION.—The term 'reservation' means any Federally recognized Indian tribe's reservation, Pueblo or colony, including former reservations in Oklahoma, Alaska Native Regions established pursuant to the Alaska Native Claims Settlement Act, and Indian allotments.

''(14) SECRETARY.—The term 'Secretary', unless specifically provided otherwise, means the Secretary of Health and Human Services.

''(15) SERVICE.—The term 'Service' means the Indian Health Service.

''(16) SERVICE AREA.—The term 'service area' means the geographical area served by each area office.

''(17) SERVICE UNIT.—The term 'service unit' means—

''(A) an administrative entity within the Indian Health Service; or

''(B) a tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination and Education Assistance Act, through which services are provided, directly or by contract, to the eligible Indian population within a defined geographic area.

''(18) TRADITIONAL HEALTH CARE PRACTICES.—The term 'traditional health care practices' means the application by Native healing practitioners of the Native healing sciences (as opposed or in contradistinction to western healing sciences) which embodies the influences or forces of innate tribal discovery, history, description, explanation and knowledge of the states of wellness and illness and which calls upon these influences or forces, including physical, mental, and spiritual forces in the promotion, restoration, preservation and maintenance of health, well-being, and life's harmony.

''(19) TRIBAL ORGANIZATION.—The term 'tribal organization' shall have the meaning given such term in section 4(l) of the Indian Self Determination and Education Assistance Act.

''(20) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term 'tribally controlled community college' shall have the meaning given such term in section 126 (g)(2).

''(21) URBAN CENTER.—The term 'urban center' means any community that has a sufficient urban Indian population with unmet health needs to warrant assistance under title V, as determined by the Secretary.

''(22) URBAN INDIAN.—The term 'urban Indian' means any individual who resides in an urban center and who—

''(A) for purposes of title V and regardless of whether such individual lives on or near a reservation, is a member of a tribe, band or other organized group of Indians, including those tribes, bands or groups terminated since 1940 and those tribes, bands or groups that are recognized by the States in which they reside, or who is a descendant in the first or second degree of any such member;

''(B) is an Eskimo or Aleut or other Alaskan Native;

''(C) is considered by the Secretary of the Interior to be an Indian for any purpose; or

''(D) is determined to be an Indian under regulations promulgated by the Secretary.

''(23) URBAN INDIAN ORGANIZATION.—The term 'urban Indian organization' means a nonprofit corporate body situated in an urban center, governed by an urban Indian controlled board of directors, and providing for the participation of all interested Indian groups and individuals, and which is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 503(a).

"TITLE I—INDIAN HEALTH, HUMAN RESOURCES AND DEVELOPMENT

"SEC. 101. PURPOSE.

''The purpose of this title is to increase, to the maximum extent feasible, the number of Indians entering the health professions and providing health services, and to assure an optimum supply of health professionals to the Service, Indian tribes, tribal organizations, and urban Indian organizations involved in the provision of health services to Indian people.

"SEC. 102. GENERAL REQUIREMENTS.

''(a) SERVICE AREA PRIORITIES.—Unless specifically provided otherwise, amounts appropriated for each fiscal year to carry out each program authorized under this title shall be allocated by the Secretary to the area office of each service area using a formula—

''(1) to be developed in consultation with Indian Tribes, tribal organizations and urban Indian organizations;

''(2) that takes into account the human resource and development needs in each such service area; and

''(3) that weighs the allocation of amounts appropriated in favor of those service areas where the health status of Indians within the area, as measured by life expectancy based upon the most recent data available, is significantly lower than the average health status for Indians in all service areas, except that amounts allocated to each such area using such a weighted allocation formula shall not be less than the amounts allocated to each such area in the previous fiscal year.

''(b) CONSULTATION.—Each area office receiving funds under this title shall actively and continuously consult with representatives of Indian tribes, tribal organizations, and urban Indian organizations to prioritize the utilization of funds provided under this title within the service area.

''(c) REALLOCATION.—Unless specifically prohibited, an area office may reallocate funds provided to the office under this title among the programs authorized by this title, except that scholarship and loan repayment funds shall not be used for administrative functions or expenses.

''(d) LIMITATION.—This section shall not apply with respect to individual recipients of scholarships, loans or other funds provided under this title (as this title existed 1 day prior to the date of enactment of this Act) until such time as the individual completes the course of study that is supported through the use of such funds.

"SEC. 103. HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall make funds available through the area office to public or nonprofit private health entities, or Indian tribes or tribal organizations to assist such entities in meeting the costs of—

''(1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them—

''(A) to enroll in courses of study in such health professions; or

''(B) if they are not qualified to enroll in any such courses of study, to undertake such postsecondary education or training as may be required to qualify them for enrollment;

''(2) publicizing existing sources of financial aid available to Indians enrolled in any course of study referred to in paragraph (1) or who are undertaking training necessary to qualify them to enroll in any such course of study; or

''(3) establishing other programs which the area office determines will enhance and facilitate the enrollment of Indians in, and the subsequent pursuit and completion by them of, courses of study referred to in paragraph (1).

''(b) ADMINISTRATIVE PROVISIONS.—

''(1) APPLICATION.—To be eligible to receive funds under this section an entity described in subsection (a) shall submit to the Secretary, through the appropriate area office, and have approved, an application in such form, submitted in such manner, and containing such information as the Secretary shall by regulation prescribe.

''(2) PREFERENCE.—In awarding funds under this section, the area office shall give a preference to applications submitted by Indian tribes, tribal organizations, or urban Indian organizations.

''(3) AMOUNT.—The amount of funds to be provided to an eligible entity under this section shall be determined by the area office. Payments under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as provided for in regulations promulgated pursuant to this Act.

''(4) TERMS.—A funding commitment under this section shall, to the extent not otherwise prohibited by law, be for a term of 3 years, as provided for in regulations promulgated pursuant to this Act.

''(c) DEFINITION.—For purposes of this section and sections 104 and 105, the terms 'Indian' and 'Indians' shall, in addition to the definition provided for in section 4, mean any individual who—

''(1) irrespective of whether such individual lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those Tribes, bands, or groups terminated since 1940;

''(2) is an Eskimo or Aleut or other Alaska Native;

''(3) is considered by the Secretary of the Interior to be an Indian for any purpose; or

''(4) is determined to be an Indian under regulations promulgated by the Secretary.

"SEC. 104. HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall provide scholarships through the area offices to Indians who—

''(1) have successfully completed their high school education or high school equivalency; and

''(2) have demonstrated the capability to successfully complete courses of study in the health professions.

''(b) PURPOSE.—Scholarships provided under this section shall be for the following purposes:

''(1) Compensatory preprofessional education of any recipient. Such scholarship shall not exceed 2 years on a full-time basis (or the part-time equivalent thereof, as determined by the area office pursuant to regulations promulgated under this Act).

''(2) Pregraduate education of any recipient leading to a baccalaureate degree in an approved course of study preparatory to a field of study in a health profession, such scholarship not to exceed 4 years (or the part-time equivalent thereof, as determined by the area office pursuant to regulations promulgated under this Act) except that an extension of up to 2 years may be approved by the Secretary.

''(c) USE OF SCHOLARSHIP.—Scholarships made under this section may be used to cover costs of tuition, books, transportation, board, and other necessary related expenses of a recipient while attending school.

''(d) LIMITATIONS.—Scholarship assistance to an eligible applicant under this section shall not be denied solely on the basis of—

''(1) the applicant's scholastic achievement if such applicant has been admitted to, or maintained good standing at, an accredited institution; or

''(2) the applicant's eligibility for assistance or benefits under any other Federal program.

"SEC. 105. INDIAN HEALTH PROFESSIONS SCHOLARSHIPS.

''(a) SCHOLARSHIPS.—

''(1) IN GENERAL.—In order to meet the needs of Indians, Indian tribes, tribal organizations, and urban Indian organizations for health professionals, the Secretary, acting through the Service and in accordance with this section, shall provide scholarships through the area offices to Indians who are enrolled full or part time in accredited schools and pursuing courses of study in the health professions. Such scholarships shall be designated Indian Health Scholarships and shall, except as provided in subsection (b), be made in accordance with section 338A of the Public Health Service Act (42 U.S.C. 254l).

''(2) NO DELEGATION.—The Director of the Service shall administer this section and shall not delegate any administrative functions under a funding agreement pursuant to the Indian Self-Determination and Education Assistance Act.

''(b) ELIGIBILITY.—

''(1) ENROLLMENT.—An Indian shall be eligible for a scholarship under subsection (a) in any year in which such individual is enrolled full or part time in a course of study referred to in subsection (a)(1).

''(2) SERVICE OBLIGATION.—

''(A) PUBLIC HEALTH SERVICE ACT.—The active duty service obligation under a written contract with the Secretary under section 338A of the Public Health Service Act (42 U.S.C. 254l) that an Indian has entered into under that section shall, if that individual is a recipient of an Indian Health Scholarship, be met in full-time practice on an equivalent year for year obligation, by service—

''(i) in the Indian Health Service;

''(ii) in a program conducted under a funding agreement entered into under the Indian Self-Determination and Education Assistance Act;

''(iii) in a program assisted under title V; or

''(iv) in the private practice of the applicable profession if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

''(B) DEFERRING ACTIVE SERVICE.—At the request of any Indian who has entered into a contract referred to in subparagraph (A) and who receives a degree in medicine (including osteopathic or allopathic medicine), dentistry, optometry, podiatry, or pharmacy, the Secretary shall defer the active duty service obligation of that individual under that contract, in order that such individual may complete any internship, residency, or other advanced clinical training that is required for the practice of that health profession, for an appropriate period (in years, as determined by the Secretary), subject to the following conditions:

''(i) No period of internship, residency, or other advanced clinical training shall be counted as satisfying any period of obligated service that is required under this section.

''(ii) The active duty service obligation of that individual shall commence not later than 90 days after the completion of that advanced clinical training (or by a date specified by the Secretary).

''(iii) The active duty service obligation will be served in the health profession of that individual, in a manner consistent with clauses (i) through (iv) of subparagraph (A).

''(C) NEW SCHOLARSHIP RECIPIENTS.—A recipient of an Indian Health Scholarship that is awarded after December 31, 2001, shall meet the active duty service obligation under such scholarship by providing service within the service area from which the scholarship was awarded. In placing the recipient for active duty the area office shall give priority to the program that funded the recipient, except that in cases of special circumstances, a recipient may be placed in a different service area pursuant to an agreement between the areas or programs involved.

''(D) PRIORITY IN ASSIGNMENT.—Subject to subparagraph (C), the area office, in making assignments of Indian Health Scholarship recipients required to meet the active duty service obligation described in subparagraph (A), shall give priority to assigning individuals to service in those programs specified in subparagraph (A) that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

''(3) PART-TIME ENROLLMENT.—In the case of an Indian receiving a scholarship under this section who is enrolled part time in an approved course of study—

''(A) such scholarship shall be for a period of years not to exceed the part-time equivalent of 4 years, as determined by the appropriate area office;

''(B) the period of obligated service described in paragraph (2)(A) shall be equal to the greater of—

''(i) the part-time equivalent of 1 year for each year for which the individual was provided a scholarship (as determined by the area office); or

''(ii) two years; and

''(C) the amount of the monthly stipend specified in section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254l(g)(1)(B)) shall be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled.

''(4) BREACH OF CONTRACT.—

''(A) IN GENERAL.—An Indian who has, on or after the date of the enactment of this paragraph, entered into a written contract with the area office pursuant to a scholarship under this section and who—

''(i) fails to maintain an acceptable level of academic standing in the educational institution in which he or she is enrolled (such level determined by the educational institution under regulations of the Secretary);

''(ii) is dismissed from such educational institution for disciplinary reasons;

''(iii) voluntarily terminates the training in such an educational institution for which he or she is provided a scholarship under such contract before the completion of such training; or

''(iv) fails to accept payment, or instructs the educational institution in which he or she is enrolled not to accept payment, in whole or in part, of a scholarship under such contract;

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to him or her, or on his or her behalf, under the contract.

''(B) FAILURE TO PERFORM SERVICE OBLIGATION.—If for any reason not specified in subparagraph (A) an individual breaches his or her written contract by failing either to begin such individual's service obligation under this section or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

''(C) DEATH.—Upon the death of an individual who receives an Indian Health Scholarship, any obligation of that individual for service or payment that relates to that scholarship shall be canceled.

''(D) WAIVER.—The Secretary shall provide for the partial or total waiver or suspension of any obligation of service or payment of a recipient of an Indian Health Scholarship if the Secretary, in consultation with the appropriate area office, Indian tribe, tribal organization, and urban Indian organization, determines that—

''(i) it is not possible for the recipient to meet that obligation or make that payment;

''(ii) requiring that recipient to meet that obligation or make that payment would result in extreme hardship to the recipient; or

''(iii) the enforcement of the requirement to meet the obligation or make the payment would be unconscionable.

''(E) HARDSHIP OR GOOD CAUSE.—Notwithstanding any other provision of law, in any case of extreme hardship or for other good cause shown, the Secretary may waive, in whole or in part, the right of the United States to recover funds made available under this section.

''(F) BANKRUPTCY.—Notwithstanding any other provision of law, with respect to a recipient of an Indian Health Scholarship, no obligation for payment may be released by a discharge in bankruptcy under title 11, United States Code, unless that discharge is granted after the expiration of the 5-year period beginning on the initial date on which

that payment is due, and only if the bankruptcy court finds that the nondischarge of the obligation would be unconscionable.

''(c) FUNDING FOR TRIBES FOR SCHOLARSHIP PROGRAMS.—

''(1) PROVISION OF FUNDS.—

''(A) IN GENERAL.—The Secretary shall make funds available, through area offices, to Indian Tribes and tribal organizations for the purpose of assisting such Tribes and tribal organizations in educating Indians to serve as health professionals in Indian communities.

''(B) LIMITATION.—The Secretary shall ensure that amounts available for grants under subparagraph (A) for any fiscal year shall not exceed an amount equal to 5 percent of the amount available for each fiscal year for Indian Health Scholarships under this section.

''(C) APPLICATION.—An application for funds under subparagraph (A) shall be in such form and contain such agreements, assurances and information as consistent with this section.

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—An Indian Tribe or tribal organization receiving funds under paragraph (1) shall agree to provide scholarships to Indians in accordance with the requirements of this subsection.

''(B) MATCHING REQUIREMENT.—With respect to the costs of providing any scholarship pursuant to subparagraph (A)—

''(i) 80 percent of the costs of the scholarship shall be paid from the funds provided under paragraph (1) to the Indian Tribe or tribal organization; and

''(ii) 20 percent of such costs shall be paid from any other source of funds.

''(3) ELIGIBILITY.—An Indian Tribe or tribal organization shall provide scholarships under this subsection only to Indians who are enrolled or accepted for enrollment in a course of study (approved by the Secretary) in one of the health professions described in this Act.

''(4) CONTRACTS.—In providing scholarships under paragraph (1), the Secretary and the Indian Tribe or tribal organization shall enter into a written contract with each recipient of such scholarship. Such contract shall—

''(A) obligate such recipient to provide service in an Indian health program (as defined in section 110(a)(2)(A)) in the same service area where the Indian Tribe or tribal organization providing the scholarship is located, for—

''(i) a number of years equal to the number of years for which the scholarship is provided (or the part-time equivalent thereof, as determined by the Secretary), or for a period of 2 years, whichever period is greater; or

''(ii) such greater period of time as the recipient and the Indian Tribe or tribal organization may agree;

''(B) provide that the scholarship—

''(i) may only be expended for—

''(I) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the educational institution; and

''(II) payment to the recipient of a monthly stipend of not more than the amount authorized by section 338(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B), such amount to be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled, and may not exceed, for any year of attendance which the scholarship is provided, the total amount required for the year for the purposes authorized in this clause; and

''(ii) may not exceed, for any year of attendance which the scholarship is provided, the total amount required for the year for the purposes authorized in clause (i);

''(C) require the recipient of such scholarship to maintain an acceptable level of academic standing as determined by the educational institution in accordance with regulations issued pursuant to this Act; and

''(D) require the recipient of such scholarship to meet the educational and licensure requirements appropriate to the health profession involved.

''(5) BREACH OF CONTRACT.—

''(A) IN GENERAL.—An individual who has entered into a written contract with the Secretary and an Indian Tribe or tribal organization under this subsection and who—

''(i) fails to maintain an acceptable level of academic standing in the education institution in which he or she is enrolled (such level determined by the educational institution under regulations of the Secretary);

''(ii) is dismissed from such education for disciplinary reasons;

''(iii) voluntarily terminates the training in such an educational institution for which he or she has been provided a scholarship under such contract before the completion of such training; or

''(iv) fails to accept payment, or instructs the educational institution in which he or she is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, in lieu of any service obligation arising under such contract;

shall be liable to the United States for the Federal share of the amount which has been paid to him or her, or on his or her behalf, under the contract.

''(B) FAILURE TO PERFORM SERVICE OBLIGATION.—If for any reason not specified in subparagraph (A), an individual breaches his or her written contract by failing to either begin such individual's service obligation required under such contract or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

''(C) INFORMATION.—The Secretary may carry out this subsection on the basis of information received from Indian Tribes or tribal organizations involved, or on the basis of information collected through such other means as the Secretary deems appropriate.

''(6) REQUIRED AGREEMENTS.—The recipient of a scholarship under paragraph (1) shall agree, in providing health care pursuant to the requirements of this subsection—

''(A) not to discriminate against an individual seeking care on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to the program established in title XVIII of the Social Security Act or pursuant to the programs established in title XIX of such Act; and

''(B) to accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be made under part B of title XVIII of such Act, and to enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX of such Act to provide service to individuals entitled to medical assistance under the plan.

''(7) PAYMENTS.—The Secretary, through the area office, shall make payments under this subsection to an Indian Tribe or tribal organization for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary or area office determines that, for the immediately preceding fiscal year, the Indian Tribe or tribal organization has not complied with the requirements of this subsection.

''SEC. 106. AMERICAN INDIANS INTO PSYCHOLOGY PROGRAM.

''(a) IN GENERAL.—Notwithstanding section 102, the Secretary shall provide funds to at least 3 colleges and universities for the purpose of developing and maintaining American Indian psychology career recruitment programs as a means of encouraging Indians to enter the mental health field. These programs shall be located at various colleges and universities throughout the country to maximize their availability to Indian students and new programs shall be established in different locations from time to time.

''(b) QUENTIN N. BURDICK AMERICAN INDIANS INTO PSYCHOLOGY PROGRAM.—The Secretary shall provide funds under subsection (a) to develop and maintain a program at the University of North Dakota to be known as the 'Quentin N. Burdick American Indians Into Psychology Program'. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Nursing Program authorized under section 115, the Quentin N. Burdick Indians into Health Program authorized under section 117, and existing university research and communications networks.

''(c) REQUIREMENTS.—

''(1) REGULATIONS.—The Secretary shall promulgate regulations pursuant to this Act for the competitive awarding of funds under this section.

''(2) PROGRAM.—Applicants for funds under this section shall agree to provide a program which, at a minimum—

''(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and accredited and accessible community colleges that will be served by the program;

''(B) incorporates a program advisory board comprised of representatives from the Tribes and communities that will be served by the program;

''(C) provides summer enrichment programs to expose Indian students to the various fields of psychology through research, clinical, and experimental activities;

''(D) provides stipends to undergraduate and graduate students to pursue a career in psychology;

''(E) develops affiliation agreements with tribal community colleges, the Service, university affiliated programs, and other appropriate accredited and accessible entities to enhance the education of Indian students;

''(F) utilizes, to the maximum extent feasible, existing university tutoring, counseling and student support services; and

''(G) employs, to the maximum extent feasible, qualified Indians in the program.

''(d) ACTIVE DUTY OBLIGATION.—The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each graduate who receives a stipend described in subsection (c)(2)(C) that is funded under this section. Such obligation shall be met by service—

''(1) in the Indian Health Service;

''(2) in a program conducted under a funding agreement contract entered into under the Indian Self-Determination and Education Assistance Act;

''(3) in a program assisted under title V; or

''(4) in the private practice of psychology if, as determined by the Secretary, in accordance with guidelines promulgated by the

Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

"SEC. 107. INDIAN HEALTH SERVICE EXTERN PROGRAMS.

''(a) IN GENERAL.—Any individual who receives a scholarship pursuant to section 105 shall be entitled to employment in the Service, or may be employed by a program of an Indian tribe, tribal organization, or urban Indian organization, or other agency of the Department as may be appropriate and available, during any nonacademic period of the year. Periods of employment pursuant to this subsection shall not be counted in determining the fulfillment of the service obligation incurred as a condition of the scholarship.

''(b) ENROLLEES IN COURSE OF STUDY.—Any individual who is enrolled in a course of study in the health professions may be employed by the Service or by an Indian tribe, tribal organization, or urban Indian organization, during any nonacademic period of the year. Any such employment shall not exceed 120 days during any calendar year.

''(c) HIGH SCHOOL PROGRAMS.—Any individual who is in a high school program authorized under section 103(a) may be employed by the Service, or by a Indian Tribe, tribal organization, or urban Indian organization, during any nonacademic period of the year. Any such employment shall not exceed 120 days during any calendar year.

''(d) ADMINISTRATIVE PROVISIONS.—Any employment pursuant to this section shall be made without regard to any competitive personnel system or agency personnel limitation and to a position which will enable the individual so employed to receive practical experience in the health profession in which he or she is engaged in study. Any individual so employed shall receive payment for his or her services comparable to the salary he or she would receive if he or she were employed in the competitive system. Any individual so employed shall not be counted against any employment ceiling affecting the Service or the Department.

"SEC. 108. CONTINUING EDUCATION ALLOWANCES.

''In order to encourage health professionals, including for purposes of this section, community health representatives and emergency medical technicians, to join or continue in the Service or in any program of an Indian tribe, tribal organization, or urban Indian organization and to provide their services in the rural and remote areas where a significant portion of the Indian people reside, the Secretary, acting through the area offices, may provide allowances to health professionals employed in the Service or such a program to enable such professionals to take leave of their duty stations for a period of time each year (as prescribed by regulations of the Secretary) for professional consultation and refresher training courses.

"SEC. 109. COMMUNITY HEALTH REPRESENTATIVE PROGRAM.

''(a) IN GENERAL.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary shall maintain a Community Health Representative Program under which the Service, Indian tribes and tribal organizations—

''(1) provide for the training of Indians as community health representatives; and

''(2) use such community health representatives in the provision of health care, health promotion, and disease prevention services to Indian communities.

''(b) ACTIVITIES.—The Secretary, acting through the Community Health Representative Program, shall—

''(1) provide a high standard of training for community health representatives to ensure that the community health representatives provide quality health care, health promotion, and disease prevention services to the Indian communities served by such Program;

''(2) in order to provide such training, develop and maintain a curriculum that—

''(A) combines education in the theory of health care with supervised practical experience in the provision of health care; and

''(B) provides instruction and practical experience in health promotion and disease prevention activities, with appropriate consideration given to lifestyle factors that have an impact on Indian health status, such as alcoholism, family dysfunction, and poverty;

''(3) maintain a system which identifies the needs of community health representatives for continuing education in health care, health promotion, and disease prevention and maintain programs that meet the needs for such continuing education;

''(4) maintain a system that provides close supervision of community health representatives;

''(5) maintain a system under which the work of community health representatives is reviewed and evaluated; and

''(6) promote traditional health care practices of the Indian tribes served consistent with the Service standards for the provision of health care, health promotion, and disease prevention.

"SEC. 110. INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall establish a program to be known as the Indian Health Service Loan Repayment Program (referred to in this Act as the 'Loan Repayment Program') in order to assure an adequate supply of trained health professionals necessary to maintain accreditation of, and provide health care services to Indians through, Indian health programs.

''(2) DEFINITIONS.—In this section:

''(A) INDIAN HEALTH PROGRAM.—The term 'Indian health program' means any health program or facility funded, in whole or part, by the Service for the benefit of Indians and administered—

''(i) directly by the Service;

''(ii) by any Indian tribe or tribal or Indian organization pursuant to a funding agreement under—

''(I) the Indian Self-Determination and Educational Assistance Act; or

''(II) section 23 of the Act of April 30, 1908 (25 U.S.C. 47) (commonly known as the 'Buy-Indian Act'); or

''(iii) by an urban Indian organization pursuant to title V.

''(B) STATE.—The term 'State' has the same meaning given such term in section 331(i)(4) of the Public Health Service Act.

''(b) ELIGIBILITY.—To be eligible to participate in the Loan Repayment Program, an individual must—

''(1)(A) be enrolled—

''(i) in a course of study or program in an accredited institution, as determined by the Secretary, within any State and be scheduled to complete such course of study in the same year such individual applies to participate in such program; or

''(ii) in an approved graduate training program in a health profession; or

''(B) have—

''(i) a degree in a health profession; and

''(ii) a license to practice a health profession in a State;

''(2)(A) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service;

''(B) be eligible for selection for civilian service in the Regular or Reserve Corps of the Public Health Service;

''(C) meet the professional standards for civil service employment in the Indian Health Service; or

''(D) be employed in an Indian health program without a service obligation; and

''(3) submit to the Secretary an application for a contract described in subsection (f).

''(c) FORMS.—

''(1) IN GENERAL.—In disseminating application forms and contract forms to individuals desiring to participate in the Loan Repayment Program, the Secretary shall include with such forms a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under subsection (l) in the case of the individual's breach of the contract. The Secretary shall provide such individuals with sufficient information regarding the advantages and disadvantages of service as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or a civilian employee of the Indian Health Service to enable the individual to make a decision on an informed basis.

''(2) FORMS TO BE UNDERSTANDABLE.—The application form, contract form, and all other information furnished by the Secretary under this section shall be written in a manner calculated to be understood by the average individual applying to participate in the Loan Repayment Program.

''(3) AVAILABILITY.—The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Loan Repayment Program on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

''(d) PRIORITY.—

''(1) ANNUAL DETERMINATIONS.—The Secretary, acting through the Service and in accordance with subsection (k), shall annually—

''(A) identify the positions in each Indian health program for which there is a need or a vacancy; and

''(B) rank those positions in order of priority.

''(2) PRIORITY IN APPROVAL.—Notwithstanding the priority determined under paragraph (1), the Secretary, in determining which applications under the Loan Repayment Program to approve (and which contracts to accept), shall—

''(A) give first priority to applications made by individuals Indians; and

''(B) after making determinations on all applications submitted by individual Indians as required under subparagraph (A), give priority to—

''(i) individuals recruited through the efforts an Indian tribe, tribal organization, or urban Indian organization; and

''(ii) other individuals based on the priority rankings under paragraph (1).

''(e) CONTRACTS.—

''(1) IN GENERAL.—An individual becomes a participant in the Loan Repayment Program

only upon the Secretary and the individual entering into a written contract described in subsection (f).

''(2) NOTICE.—Not later than 21 days after considering an individual for participation in the Loan Repayment Program under paragraph (1), the Secretary shall provide written notice to the individual of—

''(A) the Secretary's approving of the individual's participation in the Loan Repayment Program, including extensions resulting in an aggregate period of obligated service in excess of 4 years; or

''(B) the Secretary's disapproving an individual's participation in such Program.

''(f) WRITTEN CONTRACT.—The written contract referred to in this section between the Secretary and an individual shall contain—

''(1) an agreement under which—

''(A) subject to paragraph (3), the Secretary agrees—

''(i) to pay loans on behalf of the individual in accordance with the provisions of this section; and

''(ii) to accept (subject to the availability of appropriated funds for carrying out this section) the individual into the Service or place the individual with a tribe, tribal organization, or urban Indian organization as provided in subparagraph (B)(iii); and

''(B) subject to paragraph (3), the individual agrees—

''(i) to accept loan payments on behalf of the individual;

''(ii) in the case of an individual described in subsection (b)(1)—

''(I) to maintain enrollment in a course of study or training described in subsection (b)(1)(A) until the individual completes the course of study or training; and

''(II) while enrolled in such course of study or training, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study or training);

''(iii) to serve for a time period (referred to in this section as the 'period of obligated service') equal to 2 years or such longer period as the individual may agree to serve in the full-time clinical practice of such individual's profession in an Indian health program to which the individual may be assigned by the Secretary;

''(2) a provision permitting the Secretary to extend for such longer additional periods, as the individual may agree to, the period of obligated service agreed to by the individual under paragraph (1)(B)(iii);

''(3) a provision that any financial obligation of the United States arising out of a contract entered into under this section and any obligation of the individual which is conditioned thereon is contingent upon funds being appropriated for loan repayments under this section;

''(4) a statement of the damages to which the United States is entitled under subsection (l) for the individual's breach of the contract; and

''(5) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with this section.

''(g) LOAN REPAYMENTS.—

''(1) IN GENERAL.—A loan repayment provided for an individual under a written contract under the Loan Repayment Program shall consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—

''(A) tuition expenses;

''(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; and

''(C) reasonable living expenses as determined by the Secretary.

''(2) AMOUNT OF PAYMENT.—

''(A) IN GENERAL.—For each year of obligated service that an individual contracts to serve under subsection (f) the Secretary may pay up to $35,000 (or an amount equal to the amount specified in section 338B(g)(2)(A) of the Public Health Service Act) on behalf of the individual for loans described in paragraph (1). In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

''(i) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

''(ii) provides an incentive to serve in Indian health programs with the greatest shortages of health professionals; and

''(iii) provides an incentive with respect to the health professional involved remaining in an Indian health program with such a health professional shortage, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program.

''(B) TIME FOR PAYMENT.—Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made not later than the end of the fiscal year in which the individual completes such year of service.

''(3) SCHEDULE FOR PAYMENTS.—The Secretary may enter into an agreement with the holder of any loan for which payments are made under the Loan Repayment Program to establish a schedule for the making of such payments.

''(h) COUNTING OF INDIVIDUALS.—Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic training, shall not be counted against any employment ceiling affecting the Department.

''(i) RECRUITING PROGRAMS.—The Secretary shall conduct recruiting programs for the Loan Repayment Program and other health professional programs of the Service at educational institutions training health professionals or specialists identified in subsection (a).

''(j) NONAPPLICATION OF CERTAIN PROVISION.—Section 214 of the Public Health Service Act (42 U.S.C. 215) shall not apply to individuals during their period of obligated service under the Loan Repayment Program.

''(k) ASSIGNMENT OF INDIVIDUALS.—The Secretary, in assigning individuals to serve in Indian health programs pursuant to contracts entered into under this section, shall—

''(1) ensure that the staffing needs of Indian health programs administered by an Indian tribe or tribal or health organization receive consideration on an equal basis with programs that are administered directly by the Service; and

''(2) give priority to assigning individuals to Indian health programs that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

''(l) BREACH OF CONTRACT.—

''(1) IN GENERAL.—An individual who has entered into a written contract with the Secretary under this section and who—

''(A) is enrolled in the final year of a course of study and who—

''(i) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary);

''(ii) voluntarily terminates such enrollment; or

''(iii) is dismissed from such educational institution before completion of such course of study; or

''(B) is enrolled in a graduate training program, and who fails to complete such training program, and does not receive a waiver from the Secretary under subsection (b)(1)(B)(ii),

shall be liable, in lieu of any service obligation arising under such contract, to the United States for the amount which has been paid on such individual's behalf under the contract.

''(2) AMOUNT OF RECOVERY.—If, for any reason not specified in paragraph (1), an individual breaches his written contract under this section by failing either to begin, or complete, such individual's period of obligated service in accordance with subsection (f), the United States shall be entitled to recover from such individual an amount to be determined in accordance with the following formula:

$$A=3Z(t-s/t)$$

in which—

''(A) 'A' is the amount the United States is entitled to recover;

''(B) 'Z' is the sum of the amounts paid under this section to, or on behalf of, the individual and the interest on such amounts which would be payable if, at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States;

''(C) 't' is the total number of months in the individual's period of obligated service in accordance with subsection (f); and

''(D) 's' is the number of months of such period served by such individual in accordance with this section.

Amounts not paid within such period shall be subject to collection through deductions in medicare payments pursuant to section 1892 of the Social Security Act.

''(3) DAMAGES.—

''(A) TIME FOR PAYMENT.—Any amount of damages which the United States is entitled to recover under this subsection shall be paid to the United States within the 1-year period beginning on the date of the breach of contract or such longer period beginning on such date as shall be specified by the Secretary.

''(B) DELINQUENCIES.—If damages described in subparagraph (A) are delinquent for 3 months, the Secretary shall, for the purpose of recovering such damages—

''(i) utilize collection agencies contracted with by the Administrator of the General Services Administration; or

''(ii) enter into contracts for the recovery of such damages with collection agencies selected by the Secretary.

''(C) CONTRACTS FOR RECOVERY OF DAMAGES.—Each contract for recovering damages pursuant to this subsection shall provide that the contractor will, not less than once each 6 months, submit to the Secretary a

status report on the success of the contractor in collecting such damages. Section 3718 of title 31, United States Code, shall apply to any such contract to the extent not inconsistent with this subsection.

''(m) CANCELLATION, WAIVER OR RELEASE.—

''(1) CANCELLATION.—Any obligation of an individual under the Loan Repayment Program for service or payment of damages shall be canceled upon the death of the individual.

''(2) WAIVER OF SERVICE OBLIGATION.—The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment by an individual under the Loan Repayment Program whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

''(3) WAIVER OF RIGHTS OF UNITED STATES.—The Secretary may waive, in whole or in part, the rights of the United States to recover amounts under this section in any case of extreme hardship or other good cause shown, as determined by the Secretary.

''(4) RELEASE.—Any obligation of an individual under the Loan Repayment Program for payment of damages may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted after the expiration of the 5-year period beginning on the first date that payment of such damages is required, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable.

''(n) REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be submitted to the Congress under section 801, a report concerning the previous fiscal year which sets forth—

''(1) the health professional positions maintained by the Service or by tribal or Indian organizations for which recruitment or retention is difficult;

''(2) the number of Loan Repayment Program applications filed with respect to each type of health profession;

''(3) the number of contracts described in subsection (f) that are entered into with respect to each health profession;

''(4) the amount of loan payments made under this section, in total and by health profession;

''(5) the number of scholarship grants that are provided under section 105 with respect to each health profession;

''(6) the amount of scholarship grants provided under section 105, in total and by health profession;

''(7) the number of providers of health care that will be needed by Indian health programs, by location and profession, during the 3 fiscal years beginning after the date the report is filed; and

''(8) the measures the Secretary plans to take to fill the health professional positions maintained by the Service or by tribes, tribal organizations, or urban Indian organizations for which recruitment or retention is difficult.

''SEC. 111. SCHOLARSHIP AND LOAN REPAYMENT RECOVERY FUND.

''(a) ESTABLISHMENT.—Notwithstanding section 102, there is established in the Treasury of the United States a fund to be known as the Indian Health Scholarship and Loan Repayment Recovery Fund (referred to in this section as the 'LRRF'). The LRRF Fund shall consist of—

''(1) such amounts as may be collected from individuals under subparagraphs (A) and (B) of section 105(b)(4) and section 110(l) for breach of contract;

''(2) such funds as may be appropriated to the LRRF;

''(3) such interest earned on amounts in the LRRF; and

''(4) such additional amounts as may be collected, appropriated, or earned relative to the LRRF.

Amounts appropriated to the LRRF shall remain available until expended.

''(b) USE OF LRRF.—

''(1) IN GENERAL.—Amounts in the LRRF may be expended by the Secretary, subject to section 102, acting through the Service, to make payments to the Service or to an Indian tribe or tribal organization administering a health care program pursuant to a funding agreement entered into under the Indian Self-Determination and Education Assistance Act—

''(A) to which a scholarship recipient under section 105 or a loan repayment program participant under section 110 has been assigned to meet the obligated service requirements pursuant to sections; and

''(B) that has a need for a health professional to provide health care services as a result of such recipient or participant having breached the contract entered into under section 105 or section 110.

''(2) SCHOLARSHIPS AND RECRUITING.—An Indian tribe or tribal organization receiving payments pursuant to paragraph (1) may expend the payments to provide scholarships or to recruit and employ, directly or by contract, health professionals to provide health care services.

''(c) INVESTING OF FUND.—

''(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the LRRF as the Secretary determines are not required to meet current withdrawals from the LRRF. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

''(2) SALE PRICE.—Any obligation acquired by the LRRF may be sold by the Secretary of the Treasury at the market price.

''SEC. 112. RECRUITMENT ACTIVITIES.

''(a) REIMBURSEMENT OF EXPENSES.—The Secretary may reimburse health professionals seeking positions in the Service, Indian tribes, tribal organizations, or urban Indian organizations, including unpaid student volunteers and individuals considering entering into a contract under section 110, and their spouses, for actual and reasonable expenses incurred in traveling to and from their places of residence to an area in which they may be assigned for the purpose of evaluating such area with respect to such assignment.

''(b) ASSIGNMENT OF PERSONNEL.—The Secretary, acting through the Service, shall assign one individual in each area office to be responsible on a full-time basis for recruitment activities.

''SEC. 113. TRIBAL RECRUITMENT AND RETENTION PROGRAM.

''(a) FUNDING OF PROJECTS.—The Secretary, acting through the Service, shall fund innovative projects for a period not to exceed 3 years to enable Indian tribes, tribal organizations, and urban Indian organizations to recruit, place, and retain health professionals to meet the staffing needs of Indian health programs (as defined in section 110(a)(2)(A)).

''(b) ELIGIBILITY.—Any Indian tribe, tribal organization, or urban Indian organization may submit an application for funding of a project pursuant to this section.

''SEC. 114. ADVANCED TRAINING AND RESEARCH.

''(a) DEMONSTRATION PROJECT.—The Secretary, acting through the Service, shall establish a demonstration project to enable health professionals who have worked in an Indian health program (as defined in section 110) for a substantial period of time to pursue advanced training or research in areas of study for which the Secretary determines a need exists.

''(b) SERVICE OBLIGATION.—

''(1) IN GENERAL.—An individual who participates in the project under subsection (a), where the educational costs are borne by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to at least the period of time during which the individual participates in such project.

''(2) FAILURE TO COMPLETE SERVICE.—In the event that an individual fails to complete a period of obligated service under paragraph (1), the individual shall be liable to the United States for the period of service remaining. In such event, with respect to individuals entering the project after the date of the enactment of this Act, the United States shall be entitled to recover from such individual an amount to be determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

''(c) OPPORTUNITY TO PARTICIPATE.—Health professionals from Indian tribes, tribal organizations, and urban Indian organizations under the authority of the Indian Self-Determination and Education Assistance Act shall be given an equal opportunity to participate in the program under subsection (a).

''SEC. 115. NURSING PROGRAMS; QUENTIN N. BURDICK AMERICAN INDIANS INTO NURSING PROGRAM.

''(a) GRANTS.—Notwithstanding section 102, the Secretary, acting through the Service, shall provide funds to—

''(1) public or private schools of nursing;

''(2) tribally controlled community colleges and tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)); and

''(3) nurse midwife programs, and advance practice nurse programs, that are provided by any tribal college accredited nursing program, or in the absence of such, any other public or private institution,

for the purpose of increasing the number of nurses, nurse midwives, and nurse practitioners who deliver health care services to Indians.

''(b) USE OF GRANTS.—Funds provided under subsection (a) may be used to—

''(1) recruit individuals for programs which train individuals to be nurses, nurse midwives, or advanced practice nurses;

''(2) provide scholarships to Indian individuals enrolled in such programs that may be used to pay the tuition charged for such program and for other expenses incurred in connection with such program, including books, fees, room and board, and stipends for living expenses;

''(3) provide a program that encourages nurses, nurse midwives, and advanced practice nurses to provide, or continue to provide, health care services to Indians;

''(4) provide a program that increases the skills of, and provides continuing education to, nurses, nurse midwives, and advanced practice nurses; or

''(5) provide any program that is designed to achieve the purpose described in subsection (a).

''(c) APPLICATIONS.—Each application for funds under subsection (a) shall include such information as the Secretary may require to establish the connection between the program of the applicant and a health care facility that primarily serves Indians.

''(d) PREFERENCES.—In providing funds under subsection (a), the Secretary shall extend a preference to—

''(1) programs that provide a preference to Indians;

''(2) programs that train nurse midwives or advanced practice nurses;

''(3) programs that are interdisciplinary; and

''(4) programs that are conducted in cooperation with a center for gifted and talented Indian students established under section 5324(a) of the Indian Education Act of 1988.

''(e) QUENTIN N. BURDICK AMERICAN INDIANS INTO NURSING PROGRAM.—The Secretary shall ensure that a portion of the funds authorized under subsection (a) is made available to establish and maintain a program at the University of North Dakota to be known as the 'Quentin N. Burdick American Indians Into Nursing Program'. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 106(b) and the Quentin N. Burdick Indian Health Programs established under section 117(b).

''(f) SERVICE OBLIGATION.—The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each individual who receives training or assistance described in paragraph (1) or (2) of subsection (b) that is funded under subsection (a). Such obligation shall be met by service—

''(1) in the Indian Health Service;

''(2) in a program conducted under a contract entered into under the Indian Self-Determination and Education assistance Act;

''(3) in a program assisted under title V; or

''(4) in the private practice of nursing if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

''SEC. 116. TRIBAL CULTURE AND HISTORY.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall require that appropriate employees of the Service who serve Indian tribes in each service area receive educational instruction in the history and culture of such tribes and their relationship to the Service.

''(b) REQUIREMENTS.—To the extent feasible, the educational instruction to be provided under subsection (a) shall—

''(1) be provided in consultation with the affected tribal governments, tribal organizations, and urban Indian organizations;

''(2) be provided through tribally-controlled community colleges (within the meaning of section 2(4) of the Tribally Controlled Community College Assistance Act of 1978) and tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)); and

''(3) include instruction in Native American studies.

''SEC. 117. INMED PROGRAM.

''(a) GRANTS.—The Secretary may provide grants to 3 colleges and universities for the purpose of maintaining and expanding the Native American health careers recruitment program known as the 'Indians into Medicine Program' (referred to in this section as 'INMED') as a means of encouraging Indians to enter the health professions.

''(b) QUENTIN N. BURDICK INDIAN HEALTH PROGRAM.—The Secretary shall provide 1 of the grants under subsection (a) to maintain the INMED program at the University of North Dakota, to be known as the 'Quentin N. Burdick Indian Health Program', unless the Secretary makes a determination, based upon program reviews, that the program is not meeting the purposes of this section. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 106(b) and the Quentin N. Burdick American Indians Into Nursing Program established under section 115.

''(c) REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary shall develop regulations to govern grants under to this section.

''(2) PROGRAM REQUIREMENTS.—Applicants for grants provided under this section shall agree to provide a program that—

''(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and community colleges located on Indian reservations which will be served by the program;

''(B) incorporates a program advisory board comprised of representatives from the tribes and communities which will be served by the program;

''(C) provides summer preparatory programs for Indian students who need enrichment in the subjects of math and science in order to pursue training in the health professions;

''(D) provides tutoring, counseling and support to students who are enrolled in a health career program of study at the respective college or university; and

''(E) to the maximum extent feasible, employs qualified Indians in the program.

''SEC. 118. HEALTH TRAINING PROGRAMS OF COMMUNITY COLLEGES.

''(a) ESTABLISHMENT GRANTS.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall award grants to accredited and accessible community colleges for the purpose of assisting such colleges in the establishment of programs which provide education in a health profession leading to a degree or diploma in a health profession for individuals who desire to practice such profession on an Indian reservation, in the Service, or in a tribal health program.

''(2) AMOUNT.—The amount of any grant awarded to a community college under paragraph (1) for the first year in which such a grant is provided to the community college shall not exceed $100,000.

''(b) CONTINUATION GRANTS.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall award grants to accredited and accessible community colleges that have established a program described in subsection (a)(1) for the purpose of maintaining the program and recruiting students for the program.

''(2) ELIGIBILITY.—Grants may only be made under this subsection to a community college that—

''(A) is accredited;

''(B) has a relationship with a hospital facility, Service facility, or hospital that could provide training of nurses or health professionals;

''(C) has entered into an agreement with an accredited college or university medical school, the terms of which—

''(i) provide a program that enhances the transition and recruitment of students into advanced baccalaureate or graduate programs which train health professionals; and

''(ii) stipulate certifications necessary to approve internship and field placement opportunities at health programs of the Service or at tribal health programs;

''(D) has a qualified staff which has the appropriate certifications;

''(E) is capable of obtaining State or regional accreditation of the program described in subsection (a)(1); and

''(F) agrees to provide for Indian preference for applicants for programs under this section.

''(c) SERVICE PERSONNEL AND TECHNICAL ASSISTANCE.—The Secretary shall encourage community colleges described in subsection (b)(2) to establish and maintain programs described in subsection (a)(1) by—

''(1) entering into agreements with such colleges for the provision of qualified personnel of the Service to teach courses of study in such programs, and

''(2) providing technical assistance and support to such colleges.

''(d) SPECIFIED COURSES OF STUDY.—Any program receiving assistance under this section that is conducted with respect to a health profession shall also offer courses of study which provide advanced training for any health professional who—

''(1) has already received a degree or diploma in such health profession; and

''(2) provides clinical services on an Indian reservation, at a Service facility, or at a tribal clinic.

Such courses of study may be offered in conjunction with the college or university with which the community college has entered into the agreement required under subsection (b)(2)(C).

''(e) PRIORITY.—Priority shall be provided under this section to tribally controlled colleges in service areas that meet the requirements of subsection (b).

''(f) DEFINITIONS.—In this section:

''(1) COMMUNITY COLLEGE.—The term 'community college' means—

''(A) a tribally controlled community college; or

''(B) a junior or community college.

''(2) JUNIOR OR COMMUNITY COLLEGE.—The term 'junior or community college'' has the meaning given such term by section 312(e) of the Higher Education Act of 1965 (20 U.S.C. 1058(e)).

''(3) TRIBALLY CONTROLLED COLLEGE.—The term 'tribally controlled college' has the meaning given the term 'tribally controlled community college' by section 2(4) of the Tribally Controlled Community College Assistance Act of 1978.

''SEC. 119. RETENTION BONUS.

''(a) IN GENERAL.—The Secretary may pay a retention bonus to any health professional employed by, or assigned to, and serving in, the Service, an Indian tribe, a tribal organization, or an urban Indian organization either as a civilian employee or as a commissioned officer in the Regular or Reserve Corps of the Public Health Service who—

''(1) is assigned to, and serving in, a position for which recruitment or retention of personnel is difficult;

''(2) the Secretary determines is needed by the Service, tribe, tribal organization, or urban organization;

''(3) has—

''(A) completed 3 years of employment with the Service; tribe, tribal organization, or urban organization; or

''(B) completed any service obligations incurred as a requirement of—

''(i) any Federal scholarship program; or

''(ii) any Federal education loan repayment program; and

''(4) enters into an agreement with the Service, Indian tribe, tribal organization, or urban Indian organization for continued employment for a period of not less than 1 year.

''(b) RATES.—The Secretary may establish rates for the retention bonus which shall provide for a higher annual rate for multiyear agreements than for single year agreements referred to in subsection (a)(4), but in no event shall the annual rate be more than $25,000 per annum.

''(c) FAILURE TO COMPLETE TERM OF SERVICE.—Any health professional failing to complete the agreed upon term of service, except where such failure is through no fault of the individual, shall be obligated to refund to the Government the full amount of the retention bonus for the period covered by the agreement, plus interest as determined by the Secretary in accordance with section 110(l)(2)(B).

''(d) FUNDING AGREEMENT.—The Secretary may pay a retention bonus to any health professional employed by an organization providing health care services to Indians pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act if such health professional is serving in a position which the Secretary determines is—

''(1) a position for which recruitment or retention is difficult; and

''(2) necessary for providing health care services to Indians.

''SEC. 120. NURSING RESIDENCY PROGRAM.

''(a) ESTABLISHMENT.—The Secretary, acting through the Service, shall establish a program to enable Indians who are licensed practical nurses, licensed vocational nurses, and registered nurses who are working in an Indian health program (as defined in section 110(a)(2)(A)), and have done so for a period of not less than 1 year, to pursue advanced training.

''(b) REQUIREMENT.—The program established under subsection (a) shall include a combination of education and work study in an Indian health program (as defined in section 110(a)(2)(A)) leading to an associate or bachelor's degree (in the case of a licensed practical nurse or licensed vocational nurse) or a bachelor's degree (in the case of a registered nurse) or an advanced degrees in nursing and public health.

''(c) SERVICE OBLIGATION.—An individual who participates in a program under subsection (a), where the educational costs are paid by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to the amount of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

''SEC. 121. COMMUNITY HEALTH AIDE PROGRAM FOR ALASKA.

''(a) IN GENERAL.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13; commonly known as the Snyder Act), the Secretary shall maintain a Community Health Aide Program in Alaska under which the Service—

''(1) provides for the training of Alaska Natives as health aides or community health practitioners;

''(2) uses such aides or practitioners in the provision of health care, health promotion, and disease prevention services to Alaska Natives living in villages in rural Alaska; and

''(3) provides for the establishment of teleconferencing capacity in health clinics located in or near such villages for use by community health aides or community health practitioners.

''(b) ACTIVITIES.—The Secretary, acting through the Community Health Aide Program under subsection (a), shall—

''(1) using trainers accredited by the Program, provide a high standard of training to community health aides and community health practitioners to ensure that such aides and practitioners provide quality health care, health promotion, and disease prevention services to the villages served by the Program;

''(2) in order to provide such training, develop a curriculum that—

''(A) combines education in the theory of health care with supervised practical experience in the provision of health care;

''(B) provides instruction and practical experience in the provision of acute care, emergency care, health promotion, disease prevention, and the efficient and effective management of clinic pharmacies, supplies, equipment, and facilities; and

''(C) promotes the achievement of the health status objective specified in section 3(b);

''(3) establish and maintain a Community Health Aide Certification Board to certify as community health aides or community health practitioners individuals who have successfully completed the training described in paragraph (1) or who can demonstrate equivalent experience;

''(4) develop and maintain a system which identifies the needs of community health aides and community health practitioners for continuing education in the provision of health care, including the areas described in paragraph (2)(B), and develop programs that meet the needs for such continuing education;

''(5) develop and maintain a system that provides close supervision of community health aides and community health practitioners; and

''(6) develop a system under which the work of community health aides and community health practitioners is reviewed and evaluated to assure the provision of quality health care, health promotion, and disease prevention services.

''SEC. 122. TRIBAL HEALTH PROGRAM ADMINISTRATION.

''Subject to Section 102, the Secretary, acting through the Service, shall, through a funding agreement or otherwise, provide training for Indians in the administration and planning of tribal health programs.

''SEC. 123. HEALTH PROFESSIONAL CHRONIC SHORTAGE DEMONSTRATION PROJECT.

''(a) PILOT PROGRAMS.—The Secretary may, through area offices, fund pilot programs for tribes and tribal organizations to address chronic shortages of health professionals.

''(b) PURPOSE.—It is the purpose of the health professions demonstration project under this section to—

''(1) provide direct clinical and practical experience in a service area to health professions students and residents from medical schools;

''(2) improve the quality of health care for Indians by assuring access to qualified health care professionals; and

''(3) provide academic and scholarly opportunities for health professionals serving Indian people by identifying and utilizing all academic and scholarly resources of the region.

''(c) ADVISORY BOARD.—A pilot program established under subsection (a) shall incorporate a program advisory board that shall be composed of representatives from the tribes and communities in the service area that will be served by the program.

''SEC. 124. SCHOLARSHIPS.

''Scholarships and loan reimbursements provided to individuals pursuant to this title shall be treated as 'qualified scholarships' for purposes of section 117 of the Internal Revenue Code of 1986.

''SEC. 125. NATIONAL HEALTH SERVICE CORPS.

''(a) LIMITATIONS.—The Secretary shall not—

''(1) remove a member of the National Health Services Corps from a health program operated by Indian Health Service or by a tribe or tribal organization under a funding agreement with the Service under the Indian Self-Determination and Education Assistance Act, or by urban Indian organizations; or

''(2) withdraw the funding used to support such a member;

unless the Secretary, acting through the Service, tribes or tribal organization, has ensured that the Indians receiving services from such member will experience no reduction in services.

''(b) DESIGNATION OF SERVICE AREAS AS HEALTH PROFESSIONAL SHORTAGE AREAS.—All service areas served by programs operated by the Service or by a tribe or tribal organization sunder the Indian Self-Determination and Education Assistance Act, or by an urban Indian organization, shall be designated under section 332 of the Public Health Service Act (42 U.S.C. 254e) as Health Professional Shortage Areas.

''(c) FULL TIME EQUIVALENT.—National Health Service Corps scholars that qualify for the commissioned corps in the Public Health Service shall be exempt from the full time equivalent limitations of the National Health Service Corps and the Service when such scholars serve as commissioned corps officers in a health program operated by an Indian tribe or tribal organization under the Indian Self-Determination and Education Assistance Act or by an urban Indian organization.

''SEC. 126. SUBSTANCE ABUSE COUNSELOR EDUCATION DEMONSTRATION PROJECT.

''(a) DEMONSTRATION PROJECTS.—The Secretary, acting through the Service, may enter into contracts with, or make grants to, accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible accredited and accessible community colleges to establish demonstration projects to develop educational curricula for substance abuse counseling.

''(b) USE OF FUNDS.—Funds provided under this section shall be used only for developing and providing educational curricula for substance abuse counseling (including paying salaries for instructors). Such curricula may be provided through satellite campus programs.

''(c) TERM OF GRANT.—A contract entered into or a grant provided under this section shall be for a period of 1 year. Such contract or grant may be renewed for an additional 1 year period upon the approval of the Secretary.

''(d) REVIEW OF APPLICATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary, after consultation with Indian tribes and administrators of accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible accredited and accessible community colleges, shall develop and issue criteria for the review and approval of applications for funding (including applications for renewals of funding) under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of such entities to educate substance abuse counselors.

''(e) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable grant recipients to comply with the provisions of this section.

''(f) REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be submitted under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section.

''(g) DEFINITIONS.—In this section:

''(1) EDUCATIONAL CURRICULUM.—The term 'educational curriculum' means 1 or more of the following:

''(A) Classroom education.

''(B) Clinical work experience.

''(C) Continuing education workshops.

''(2) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term 'tribally controlled community college' has the meaning given such term in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

''(3) TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTION.—The term 'tribally controlled postsecondary vocational institution' has the meaning given such term in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)).

''SEC. 127. MENTAL HEALTH TRAINING AND COMMUNITY EDUCATION.

''(a) STUDY AND LIST.—

''(1) IN GENERAL.—The Secretary and the Secretary of the Interior in consultation with Indian tribes and tribal organizations shall conduct a study and compile a list of the types of staff positions specified in subsection (b) whose qualifications include or should include, training in the identification, prevention, education, referral or treatment of mental illness, dysfunctional or self-destructive behavior.

''(2) POSITIONS.—The positions referred to in paragraph (1) are—

''(A) staff positions within the Bureau of Indian Affairs, including existing positions, in the fields of—

''(i) elementary and secondary education;

''(ii) social services, family and child welfare;

''(iii) law enforcement and judicial services; and

''(iv) alcohol and substance abuse;

''(B) staff positions within the Service; and

''(C) staff positions similar to those specified in subsection (b) and established and maintained by Indian tribes, tribal organizations, and urban Indian organizations, including positions established pursuant to funding agreements under the Indian Self-determination and Education Assistance Act, and this Act.

''(3) TRAINING CRITERIA.—

''(A) IN GENERAL.—The appropriate Secretary shall provide training criteria appropriate to each type of position specified in subsection (b)(1) and ensure that appropriate training has been or will be provided to any individual in any such position.

''(B) TRAINING.—With respect to any such individual in a position specified pursuant to subsection (b)(3), the respective Secretaries shall provide appropriate training or provide funds to an Indian tribe, tribal organization, or urban Indian organization for the training of appropriate individuals. In the case of a funding agreement, the appropriate Secretary shall ensure that such training costs are included in the funding agreement, if necessary.

''(4) CULTURAL RELEVANCY.—Position specific training criteria shall be culturally relevant to Indians and Indian tribes and shall ensure that appropriate information regarding traditional health care practices is provided.

''(5) COMMUNITY EDUCATION.—

''(A) DEVELOPMENT.—The Service shall develop and implement, or on request of an Indian tribe or tribal organization, assist an Indian tribe or tribal organization, in developing and implementing a program of community education on mental illness.

''(B) TECHNICAL ASSISTANCE.—In carrying out this paragraph, the Service shall, upon the request of an Indian tribe or tribal organization, provide technical assistance to the Indian tribe or tribal organization to obtain and develop community educational materials on the identification, prevention, referral and treatment of mental illness, dysfunctional and self-destructive behavior.

''(b) STAFFING.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Act, the Director of the Service shall develop a plan under which the Service will increase the number of health care staff that are providing mental health services by at least 500 positions within 5 years after such date of enactment, with at least 200 of such positions devoted to child, adolescent, and family services. The allocation of such positions shall be subject to the provisions of section 102(a).

''(2) IMPLEMENTATION.—The plan developed under paragraph (1) shall be implemented under the Act of November 2, 1921 (25 U.S.C. 13) (commonly know as the 'Snyder Act').

''SEC. 128. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2013 to carry out this title.

''TITLE II—HEALTH SERVICES

''SEC. 201. INDIAN HEALTH CARE IMPROVEMENT FUND.

''(a) IN GENERAL.—The Secretary may expend funds, directly or under the authority of the Indian Self-Determination and Education Assistance Act, that are appropriated under the authority of this section, for the purposes of—

''(1) eliminating the deficiencies in the health status and resources of all Indian tribes;

''(2) eliminating backlogs in the provision of health care services to Indians;

''(3) meeting the health needs of Indians in an efficient and equitable manner;

''(4) eliminating inequities in funding for both direct care and contract health service programs; and

''(5) augmenting the ability of the Service to meet the following health service responsibilities with respect to those Indian tribes with the highest levels of health status and resource deficiencies:

''(A) clinical care, including inpatient care, outpatient care (including audiology, clinical eye and vision care), primary care, secondary and tertiary care, and long term care;

''(B) preventive health, including mammography and other cancer screening in accordance with section 207;

''(C) dental care;

''(D) mental health, including community mental health services, inpatient mental health services, dormitory mental health services, therapeutic and residential treatment centers, and training of traditional health care practitioners;

''(E) emergency medical services;

''(F) treatment and control of, and rehabilitative care related to, alcoholism and drug abuse (including fetal alcohol syndrome) among Indians;

''(G) accident prevention programs;

''(H) home health care;

''(I) community health representatives;

''(J) maintenance and repair; and

''(K) traditional health care practices.

''(b) USE OF FUNDS.—

''(1) LIMITATION.—Any funds appropriated under the authority of this section shall not be used to offset or limit any other appropriations made to the Service under this Act, the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), or any other provision of law.

''(2) ALLOCATION.—

''(A) IN GENERAL.—Funds appropriated under the authority of this section shall be allocated to service units or Indian tribes or tribal organizations. The funds allocated to each tribe, tribal organization, or service unit under this subparagraph shall be used to improve the health status and reduce the resource deficiency of each tribe served by such service unit, tribe or tribal organization. Such allocation shall weigh the amounts appropriated in favor of those service areas where the health status of Indians within the area, as measured by life expectancy based upon the most recent data available, is significantly lower than the average health status for Indians for all service areas, except that amounts allocated to each such area using such a weighted allocation formula shall not be less than the amounts allocated to each such area in the previous fiscal year.

''(B) APPORTIONMENT.—The apportionment of funds allocated to a service unit, tribe or tribal organization under subparagraph (A) among the health service responsibilities described in subsection (a)(4) shall be determined by the Service in consultation with, and with the active participation of, the affected Indian tribes in accordance with this section and such rules as may be established under title VIII.

''(c) HEALTH STATUS AND RESOURCE DEFICIENCY.—In this section:

''(1) DEFINITION.—The term 'health status and resource deficiency' means the extent to which—

''(A) the health status objective set forth in section 3(2) is not being achieved; and

''(B) the Indian tribe or tribal organization does not have available to it the health resources it needs, taking into account the actual cost of providing health care services given local geographic, climatic, rural, or other circumstances.

''(2) RESOURCES.—The health resources available to an Indian tribe or tribal organization shall include health resources provided by the Service as well as health resources used by the Indian Tribe or tribal organization, including services and financing systems provided by any Federal programs, private insurance, and programs of State or local governments.

''(3) REVIEW OF DETERMINATION.—The Secretary shall establish procedures which allow any Indian tribe or tribal organization to petition the Secretary for a review of any determination of the extent of the health status and resource deficiency of such tribe or tribal organization.

''(d) ELIGIBILITY.—Programs administered by any Indian tribe or tribal organization under the authority of the Indian Self-Determination and Education Assistance Act shall be eligible for funds appropriated under the authority of this section on an equal basis with programs that are administered directly by the Service.

''(e) REPORT.—Not later than the date that is 3 years after the date of enactment of this Act, the Secretary shall submit to the Congress the current health status and resource deficiency report of the Service for each Indian tribe or service unit, including newly recognized or acknowledged tribes. Such report shall set out—

''(1) the methodology then in use by the Service for determining tribal health status and resource deficiencies, as well as the most recent application of that methodology;

''(2) the extent of the health status and resource deficiency of each Indian tribe served by the Service;

''(3) the amount of funds necessary to eliminate the health status and resource deficiencies of all Indian tribes served by the Service; and

''(4) an estimate of—

''(A) the amount of health service funds appropriated under the authority of this Act, or any other Act, including the amount of any funds transferred to the Service, for the preceding fiscal year which is allocated to each service unit, Indian tribe, or comparable entity;

''(B) the number of Indians eligible for health services in each service unit or Indian tribe or tribal organization; and

''(C) the number of Indians using the Service resources made available to each service unit or Indian tribe or tribal organization, and, to the extent available, information on the waiting lists and number of Indians turned away for services due to lack of resources.

''(f) BUDGETARY RULE.—Funds appropriated under the authority of this section for any fiscal year shall be included in the base budget of the Service for the purpose of determining appropriations under this section in subsequent fiscal years.

''(g) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to diminish the primary responsibility of the Service to eliminate existing backlogs in unmet health care needs or to discourage the Service from undertaking additional efforts to achieve equity among Indian tribes and tribal organizations.

''(h) DESIGNATION.—Any funds appropriated under the authority of this section shall be designated as the 'Indian Health Care Improvement Fund'.

''SEC. 202. CATASTROPHIC HEALTH EMERGENCY FUND.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is hereby established an Indian Catastrophic Health Emergency Fund (referred to in this section as the 'CHEF') consisting of—

''(A) the amounts deposited under subsection (d); and

''(B) any amounts appropriated to the CHEF under this Act.

''(2) ADMINISTRATION.—The CHEF shall be administered by the Secretary solely for the purpose of meeting the extraordinary medical costs associated with the treatment of victims of disasters or catastrophic illnesses who are within the responsibility of the Service.

''(3) EQUITABLE ALLOCATION.—The CHEF shall be equitably allocated, apportioned or delegated on a service unit or area office basis, based upon a formula to be developed by the Secretary in consultation with the Indian tribes and tribal organizations through negotiated rulemaking under title VIII. Such formula shall take into account the added needs of service areas which are contract health service dependent.

''(4) NOT SUBJECT TO CONTRACT OR GRANT.—No part of the CHEF or its administration shall be subject to contract or grant under any law, including the Indian Self-Determination and Education Assistance Act.

''(5) ADMINISTRATION.—Amounts provided from the CHEF shall be administered by the area offices based upon priorities determined by the Indian tribes and tribal organizations within each service area, including a consideration of the needs of Indian tribes and tribal organizations which are contract health service-dependent.

''(b) REQUIREMENTS.—The Secretary shall, through the negotiated rulemaking process under title VIII, promulgate regulations consistent with the provisions of this section—

''(1) establish a definition of disasters and catastrophic illnesses for which the cost of treatment provided under contract would qualify for payment from the CHEF;

''(2) provide that a service unit, Indian tribe, or tribal organization shall not be eligible for reimbursement for the cost of treatment from the CHEF until its cost of treatment for any victim of such a catastrophic illness or disaster has reached a certain threshold cost which the Secretary shall establish at—

''(A) for 1999, not less than $19,000; and

''(B) for any subsequent year, not less than the threshold cost of the previous year increased by the percentage increase in the medical care expenditure category of the consumer price index for all urban consumers (United States city average) for the 12-month period ending with December of the previous year;

''(3) establish a procedure for the reimbursement of the portion of the costs incurred by—

''(A) service units, Indian tribes, or tribal organizations, or facilities of the Service; or

''(B) non-Service facilities or providers whenever otherwise authorized by the Service;

in rendering treatment that exceeds threshold cost described in paragraph (2);

''(4) establish a procedure for payment from the CHEF in cases in which the exigencies of the medical circumstances warrant treatment prior to the authorization of such treatment by the Service; and

''(5) establish a procedure that will ensure that no payment shall be made from the CHEF to any provider of treatment to the extent that such provider is eligible to receive payment for the treatment from any other Federal, State, local, or private source of reimbursement for which the patient is eligible.

''(c) LIMITATION.—Amounts appropriated to the CHEF under this section shall not be used to offset or limit appropriations made to the Service under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act) or any other law.

''(d) DEPOSITS.—There shall be deposited into the CHEF all reimbursements to which the Service is entitled from any Federal, State, local, or private source (including third party insurance) by reason of treatment rendered to any victim of a disaster or catastrophic illness the cost of which was paid from the CHEF.

''SEC. 203. HEALTH PROMOTION AND DISEASE PREVENTION SERVICES.

''(a) FINDINGS.—Congress finds that health promotion and disease prevention activities will—

''(1) improve the health and well-being of Indians; and

''(2) reduce the expenses for health care of Indians.

''(b) PROVISION OF SERVICES.—The Secretary, acting through the Service and through Indian tribes and tribal organizations, shall provide health promotion and disease prevention services to Indians so as to achieve the health status objective set forth in section 3(b).

''(c) DISEASE PREVENTION AND HEALTH PROMOTION.—In this section:

''(1) DISEASE PREVENTION.—The term 'disease prevention' means the reduction, limitation, and prevention of disease and its complications, and the reduction in the consequences of such diseases, including—

''(A) controlling—

''(i) diabetes;

''(ii) high blood pressure;

''(iii) infectious agents;

''(iv) injuries;

''(v) occupational hazards and disabilities;

''(vi) sexually transmittable diseases; and

''(vii) toxic agents; and

''(B) providing—

''(i) for the fluoridation of water; and

''(ii) immunizations.

''(2) HEALTH PROMOTION.—The term 'health promotion' means fostering social, economic, environmental, and personal factors conducive to health, including—

''(A) raising people's awareness about health matters and enabling them to cope with health problems by increasing their knowledge and providing them with valid information;

''(B) encouraging adequate and appropriate diet, exercise, and sleep;

''(C) promoting education and work in conformity with physical and mental capacity;

''(E) making available suitable housing, safe water, and sanitary facilities;

''(F) improving the physical economic, cultural, psychological, and social environment;

''(G) promoting adequate opportunity for spiritual, religious, and traditional practices; and

''(H) adequate and appropriate programs including—

''(i) abuse prevention (mental and physical);

''(iii) community health;

''(iv) community safety;

''(v) consumer health education;

''(vi) diet and nutrition;

''(vii) disease prevention (communicable, immunizations, HIV/AIDS);

''(viii) environmental health;

''(ix) exercise and physical fitness;

''(x) fetal alcohol disorders;

''(xi) first aid and CPR education;

''(xii) human growth and development;

''(xiii) injury prevention and personal safety;

''(xiv) mental health (emotional, self-worth);

''(xv) personal health and wellness practices;

''(xvi) personal capacity building;

''(xvii) prenatal, pregnancy, and infant care;

''(xviii) psychological well being;

''(xix) reproductive health (family planning);
''(xx) safe and adequate water;
''(xxi) safe housing;
''(xxii) safe work environments;
''(xxiii) stress control;
''(xxiv) substance abuse;
''(xxv) sanitary facilities;
''(xxvi) tobacco use cessation and reduction;
''(xxvii) violence prevention; and
''(xxviii) such other activities identified by the Service, an Indian tribe or tribal organization, to promote the achievement of the objective described in section 3(b).

''(d) EVALUATION.—The Secretary, after obtaining input from affected Indian tribes and tribal organizations, shall submit to the President for inclusion in each statement which is required to be submitted to Congress under section 801 an evaluation of—

''(1) the health promotion and disease prevention needs of Indians;

''(2) the health promotion and disease prevention activities which would best meet such needs;

''(3) the internal capacity of the Service to meet such needs; and

''(4) the resources which would be required to enable the Service to undertake the health promotion and disease prevention activities necessary to meet such needs.

''SEC. 204. DIABETES PREVENTION, TREATMENT, AND CONTROL.

''(a) DETERMINATION.—The Secretary, in consultation with Indian tribes and tribal organizations, shall determine—

''(1) by tribe, tribal organization, and service unit of the Service, the prevalence of, and the types of complications resulting from, diabetes among Indians; and

''(2) based on paragraph (1), the measures (including patient education) each service unit should take to reduce the prevalence of, and prevent, treat, and control the complications resulting from, diabetes among Indian tribes within that service unit.

''(b) SCREENING.—The Secretary shall screen each Indian who receives services from the Service for diabetes and for conditions which indicate a high risk that the individual will become diabetic. Such screening may be done by an Indian tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination and Education Assistance Act.

''(c) CONTINUED FUNDING.—The Secretary shall continue to fund, through fiscal year 2013, each effective model diabetes project in existence on the date of the enactment of this Act and such other diabetes programs operated by the Secretary or by Indian tribes and tribal organizations and any additional programs added to meet existing diabetes needs. Indian tribes and tribal organizations shall receive recurring funding for the diabetes programs which they operate pursuant to this section. Model diabetes projects shall consult, on a regular basis, with tribes and tribal organizations in their regions regarding diabetes needs and provide technical expertise as needed.

''(d) DIALYSIS PROGRAMS.—The Secretary shall provide funding through the Service, Indian tribes and tribal organizations to establish dialysis programs, including funds to purchase dialysis equipment and provide necessary staffing.

''(e) OTHER ACTIVITIES.—The Secretary shall, to the extent funding is available—

''(1) in each area office of the Service, consult with Indian tribes and tribal organizations regarding programs for the prevention, treatment, and control of diabetes;

''(2) establish in each area office of the Service a registry of patients with diabetes to track the prevalence of diabetes and the complications from diabetes in that area; and

''(3) ensure that data collected in each area office regarding diabetes and related complications among Indians is disseminated to tribes, tribal organizations, and all other area offices.

''SEC. 205. SHARED SERVICES.

''(a) IN GENERAL.—The Secretary, acting through the Service and notwithstanding any other provision of law, is authorized to enter into funding agreements or other arrangements with Indian tribes or tribal organizations for the delivery of long-term care and similar services to Indians. Such projects shall provide for the sharing of staff or other services between a Service or tribal facility and a long-term care or other similar facility owned and operated (directly or through a funding agreement) by such Indian tribe or tribal organization.

''(b) REQUIREMENTS.—A funding agreement or other arrangement entered into pursuant to subsection (a)—

''(1) may, at the request of the Indian tribe or tribal organization, delegate to such tribe or tribal organization such powers of supervision and control over Service employees as the Secretary deems necessary to carry out the purposes of this section;

''(2) shall provide that expenses (including salaries) relating to services that are shared between the Service and the tribal facility be allocated proportionately between the Service and the tribe or tribal organization; and

''(3) may authorize such tribe or tribal organization to construct, renovate, or expand a long-term care or other similar facility (including the construction of a facility attached to a Service facility).

''(c) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

''(d) USE OF EXISTING FACILITIES.—The Secretary shall encourage the use for long-term or similar care of existing facilities that are under-utilized or allow the use of swing beds for such purposes.

''SEC. 206. HEALTH SERVICES RESEARCH.

''(a) FUNDING.—The Secretary shall make funding available for research to further the performance of the health service responsibilities of the Service, Indian tribes, and tribal organizations and shall coordinate the activities of other Agencies within the Department to address these research needs.

''(b) ALLOCATION.—Funding under subsection (a) shall be allocated equitably among the area offices. Each area office shall award such funds competitively within that area.

''(c) ELIGIBILITY FOR FUNDS.—Indian tribes and tribal organizations receiving funding from the Service under the authority of the Indian Self-Determination and Education Assistance Act shall be given an equal opportunity to compete for, and receive, research funds under this section.

''(d) USE.—Funds received under this section may be used for both clinical and nonclinical research by Indian tribes and tribal organizations and shall be distributed to the area offices. Such area offices may make grants using such funds within each area.

''SEC. 207. MAMMOGRAPHY AND OTHER CANCER SCREENING.

''The Secretary, through the Service or through Indian tribes or tribal organizations, shall provide for the following screening:

''(1) Mammography (as defined in section 1861(jj) of the Social Security Act) for Indian women at a frequency appropriate to such women under national standards, and under such terms and conditions as are consistent with standards established by the Secretary to assure the safety and accuracy of screening mammography under part B of title XVIII of the Social Security Act.

''(2) Other cancer screening meeting national standards.

''SEC. 208. PATIENT TRAVEL COSTS.

''The Secretary, acting through the Service, Indian tribes and tribal organizations shall provide funds for the following patient travel costs, including appropriate and necessary qualified escorts, associated with receiving health care services provided (either through direct or contract care or through funding agreements entered into pursuant to the Indian Self-Determination and Education Assistance Act) under this Act:

''(1) Emergency air transportation and nonemergency air transportation where ground transportation is infeasible.

''(2) Transportation by private vehicle, specially equipped vehicle and ambulance.

''(3) Transportation by such other means as may be available and required when air or motor vehicle transportation is not available.

''SEC. 209. EPIDEMIOLOGY CENTERS.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—In addition to those centers operating 1 day prior to the date of enactment of this Act, (including those centers for which funding is currently being provided through funding agreements under the Indian Self-Determination and Education Assistance Act), the Secretary shall, not later than 180 days after such date of enactment, establish and fund an epidemiology center in each service area which does not have such a center to carry out the functions described in paragraph (2). Any centers established under the preceding sentence may be operated by Indian tribes or tribal organizations pursuant to funding agreements under the Indian Self-Determination and Education Assistance Act, but funding under such agreements may not be divisible.

''(2) FUNCTIONS.—In consultation with and upon the request of Indian tribes, tribal organizations and urban Indian organizations, each area epidemiology center established under this subsection shall, with respect to such area shall—

''(A) collect data related to the health status objective described in section 3(b), and monitor the progress that the Service, Indian tribes, tribal organizations, and urban Indian organizations have made in meeting such health status objective;

''(B) evaluate existing delivery systems, data systems, and other systems that impact the improvement of Indian health;

''(C) assist Indian tribes, tribal organizations, and urban Indian organizations in identifying their highest priority health status objectives and the services needed to achieve such objectives, based on epidemiological data;

''(D) make recommendations for the targeting of services needed by tribal, urban, and other Indian communities;

''(E) make recommendations to improve health care delivery systems for Indians and urban Indians;

''(F) provide requested technical assistance to Indian Tribes and urban Indian organizations in the development of local health

service priorities and incidence and prevalence rates of disease and other illness in the community; and

''(G) provide disease surveillance and assist Indian tribes, tribal organizations, and urban Indian organizations to promote public health.

''(3) TECHNICAL ASSISTANCE.—The director of the Centers for Disease Control and Prevention shall provide technical assistance to the centers in carrying out the requirements of this subsection.

''(b) FUNDING.—The Secretary may make funding available to Indian tribes, tribal organizations, and eligible intertribal consortia or urban Indian organizations to conduct epidemiological studies of Indian communities.

''SEC. 210. COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall provide funding to Indian tribes, tribal organizations, and urban Indian organizations to develop comprehensive school health education programs for children from preschool through grade 12 in schools for the benefit of Indian and urban Indian children.

''(b) USE OF FUNDS.—Funds awarded under this section may be used to—

''(1) develop and implement health education curricula both for regular school programs and after school programs;

''(2) train teachers in comprehensive school health education curricula;

''(3) integrate school-based, community-based, and other public and private health promotion efforts;

''(4) encourage healthy, tobacco-free school environments;

''(5) coordinate school-based health programs with existing services and programs available in the community;

''(6) develop school programs on nutrition education, personal health, oral health, and fitness;

''(7) develop mental health wellness programs;

''(8) develop chronic disease prevention programs;

''(9) develop substance abuse prevention programs;

''(10) develop injury prevention and safety education programs;

''(11) develop activities for the prevention and control of communicable diseases;

''(12) develop community and environmental health education programs that include traditional health care practitioners;

''(13) carry out violence prevention activities; and

''(14) carry out activities relating to such other health issues as are appropriate.

''(c) TECHNICAL ASSISTANCE.—The Secretary shall, upon request, provide technical assistance to Indian tribes, tribal organization and urban Indian organizations in the development of comprehensive health education plans, and the dissemination of comprehensive health education materials and information on existing health programs and resources.

''(d) CRITERIA.—The Secretary, in consultation with Indian tribes tribal organizations, and urban Indian organizations shall establish criteria for the review and approval of applications for funding under this section.

''(e) COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAM.—

''(1) DEVELOPMENT.—The Secretary of the Interior, acting through the Bureau of Indian Affairs and in cooperation with the Secretary and affected Indian tribes and tribal organizations, shall develop a comprehensive school health education program for children from preschool through grade 12 for use in schools operated by the Bureau of Indian Affairs.

''(2) REQUIREMENTS.—The program developed under paragraph (1) shall include—

''(A) school programs on nutrition education, personal health, oral health, and fitness;

''(B) mental health wellness programs;

''(C) chronic disease prevention programs;

''(D) substance abuse prevention programs;

''(E) injury prevention and safety education programs; and

''(F) activities for the prevention and control of communicable diseases.

''(3) TRAINING AND COORDINATION.—The Secretary of the Interior shall—

''(A) provide training to teachers in comprehensive school health education curricula;

''(B) ensure the integration and coordination of school-based programs with existing services and health programs available in the community; and

''(C) encourage healthy, tobacco-free school environments.

''SEC. 211. INDIAN YOUTH PROGRAM.

''(a) IN GENERAL.—The Secretary, acting through the Service, is authorized to provide funding to Indian tribes, tribal organizations, and urban Indian organizations for innovative mental and physical disease prevention and health promotion and treatment programs for Indian and urban Indian preadolescent and adolescent youths.

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—Funds made available under this section may be used to—

''(A) develop prevention and treatment programs for Indian youth which promote mental and physical health and incorporate cultural values, community and family involvement, and traditional health care practitioners; and

''(B) develop and provide community training and education.

''(2) LIMITATION.—Funds made available under this section may not be used to provide services described in section 707(c).

''(c) REQUIREMENTS.—The Secretary shall—

''(1) disseminate to Indian tribes, tribal organizations, and urban Indian organizations information regarding models for the delivery of comprehensive health care services to Indian and urban Indian adolescents;

''(2) encourage the implementation of such models; and

''(3) at the request of an Indian tribe, tribal organization, or urban Indian organization, provide technical assistance in the implementation of such models.

''(d) CRITERIA.—The Secretary, in consultation with Indian tribes, tribal organization, and urban Indian organizations, shall establish criteria for the review and approval of applications under this section.

''SEC. 212. PREVENTION, CONTROL, AND ELIMINATION OF COMMUNICABLE AND INFECTIOUS DISEASES.

''(a) IN GENERAL.—The Secretary, acting through the Service after consultation with Indian tribes, tribal organizations, urban Indian organizations, and the Centers for Disease Control and Prevention, may make funding available to Indian tribes and tribal organizations for—

''(1) projects for the prevention, control, and elimination of communicable and infectious diseases, including tuberculosis, hepatitis, HIV, respiratory syncitial virus, hanta virus, sexually transmitted diseases, and H. Pylori, which projects may include screening, testing and treatment for HCV and other infectious and communicable diseases;

''(2) public information and education programs for the prevention, control, and elimination of communicable and infectious diseases;

''(3) education, training, and clinical skills improvement activities in the prevention, control, and elimination of communicable and infectious diseases for health professionals, including allied health professionals; and

''(4) a demonstration project that studies the seroprevalence of the Hepatitis C virus among a random sample of American Indian and Alaskan Native populations and identifies prevalence rates among a variety of tribes and geographic regions.

''(b) REQUIREMENT OF APPLICATION.—The Secretary may provide funds under subsection (a) only if an application or proposal for such funds is submitted.

''(c) TECHNICAL ASSISTANCE AND REPORT.—In carrying out this section, the Secretary—

''(1) may, at the request of an Indian tribe or tribal organization, provide technical assistance; and

''(2) shall prepare and submit, biennially, a report to Congress on the use of funds under this section and on the progress made toward the prevention, control, and elimination of communicable and infectious diseases among Indians and urban Indians.

''SEC. 213. AUTHORITY FOR PROVISION OF OTHER SERVICES.

''(a) IN GENERAL.—The Secretary, acting through the Service, Indian tribes, and tribal organizations, may provide funding under this Act to meet the objective set forth in section 3 through health care related services and programs not otherwise described in this Act. Such services and programs shall include services and programs related to—

''(1) hospice care and assisted living;

''(2) long-term health care;

''(3) home- and community-based services;

''(4) public health functions; and

''(5) traditional health care practices.

''(b) AVAILABILITY OF SERVICES FOR CERTAIN INDIVIDUALS.—At the discretion of the Service, Indian tribe, or tribal organization, services hospice care, home health care (under section 201), home- and community-based care, assisted living, and long term care may be provided (on a cost basis) to individuals otherwise ineligible for the health care benefits of the Service. Any funds received under this subsection shall not be used to offset or limit the funding allocated to a tribe or tribal organization.

''(c) DEFINITIONS.—In this section:

''(1) HOME- AND COMMUNITY-BASED SERVICES.—The term 'home- and community-based services' means 1 or more of the following:

''(A) Homemaker/home health aide services.

''(B) Chore services.

''(C) Personal care services.

''(D) Nursing care services provided outside of a nursing facility by, or under the supervision of, a registered nurse.

''(E) Training for family members.

''(F) Adult day care.

''(G) Such other home- and community-based services as the Secretary or a tribe or tribal organization may approve.

''(2) HOSPICE CARE.—The term 'hospice care' means the items and services specified in subparagraphs (A) through (H) of section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)), and such other services which an Indian tribe or tribal organization determines are necessary and appropriate to provide in furtherance of such care.

''(3) PUBLIC HEALTH FUNCTIONS.—The term 'public health functions' means public health

related programs, functions, and services including assessments, assurances, and policy development that Indian tribes and tribal organizations are authorized and encouraged, in those circumstances where it meets their needs, to carry out by forming collaborative relationships with all levels of local, State, and Federal governments.

"SEC. 214. INDIAN WOMEN'S HEALTH CARE.

''The Secretary acting through the Service, Indian tribes, tribal organizations, and urban Indian organizations shall provide funding to monitor and improve the quality of health care for Indian women of all ages through the planning and delivery of programs administered by the Service, in order to improve and enhance the treatment models of care for Indian women.

"SEC. 215. ENVIRONMENTAL AND NUCLEAR HEALTH HAZARDS.

''(a) STUDY AND MONITORING PROGRAMS.—The Secretary and the Service shall, in conjunction with other appropriate Federal agencies and in consultation with concerned Indian tribes and tribal organizations, conduct a study and carry out ongoing monitoring programs to determine the trends that exist in the health hazards posed to Indian miners and to Indians on or near Indian reservations and in Indian communities as a result of environmental hazards that may result in chronic or life-threatening health problems. Such hazards include nuclear resource development, petroleum contamination, and contamination of the water source or of the food chain. Such study (and any reports with respect to such study) shall include—

''(1) an evaluation of the nature and extent of health problems caused by environmental hazards currently exhibited among Indians and the causes of such health problems;

''(2) an analysis of the potential effect of ongoing and future environmental resource development on or near Indian reservations and communities including the cumulative effect of such development over time on health;

''(3) an evaluation of the types and nature of activities, practices, and conditions causing or affecting such health problems including uranium mining and milling, uranium mine tailing deposits, nuclear power plant operation and construction, and nuclear waste disposal, oil and gas production or transportation on or near Indian reservations or communities, and other development that could affect the health of Indians and their water supply and food chain;

''(4) a summary of any findings or recommendations provided in Federal and State studies, reports, investigations, and inspections during the 5 years prior to the date of the enactment of this Act that directly or indirectly relate to the activities, practices, and conditions affecting the health or safety of such Indians; and

''(5) a description of the efforts that have been made by Federal and State agencies and resource and economic development companies to effectively carry out an education program for such Indians regarding the health and safety hazards of such development.

''(b) DEVELOPMENT OF HEALTH CARE PLANS.—Upon the completion of the study under subsection (a), the Secretary and the Service shall take into account the results of such study and, in consultation with Indian tribes and tribal organizations, develop a health care plan to address the health problems that were the subject of such study. The plans shall include—

''(1) methods for diagnosing and treating Indians currently exhibiting such health problems;

''(2) preventive care and testing for Indians who may be exposed to such health hazards, including the monitoring of the health of individuals who have or may have been exposed to excessive amounts of radiation, or affected by other activities that have had or could have a serious impact upon the health of such individuals; and

''(3) a program of education for Indians who, by reason of their work or geographic proximity to such nuclear or other development activities, may experience health problems.

''(c) SUBMISSION TO CONGRESS.—

''(1) GENERAL REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary and the Service shall submit to Congress a report concerning the study conducted under subsection (a).

''(2) HEALTH CARE PLAN REPORT.—Not later than 1 year after the date on which the report under paragraph (1) is submitted to Congress, the Secretary and the Service shall submit to Congress the health care plan prepared under subsection (b). Such plan shall include recommended activities for the implementation of the plan, as well as an evaluation of any activities previously undertaken by the Service to address the health problems involved.

''(d) TASK FORCE.—

''(1) ESTABLISHED.—There is hereby established an Intergovernmental Task Force (referred to in this section as the 'task force') that shall be composed of the following individuals (or their designees):

''(A) The Secretary of Energy.

''(B) The Administrator of the Environmental Protection Agency.

''(C) The Director of the Bureau of Mines.

''(D) The Assistant Secretary for Occupational Safety and Health.

''(E) The Secretary of the Interior.

''(2) DUTIES.—The Task Force shall identify existing and potential operations related to nuclear resource development or other environmental hazards that affect or may affect the health of Indians on or near an Indian reservation or in an Indian community, and enter into activities to correct existing health hazards and ensure that current and future health problems resulting from nuclear resource or other development activities are minimized or reduced.

''(3) ADMINISTRATIVE PROVISIONS.—The Secretary shall serve as the chairperson of the Task Force. The Task Force shall meet at least twice each year. Each member of the Task Force shall furnish necessary assistance to the Task Force.

''(e) PROVISION OF APPROPRIATE MEDICAL CARE.—In the case of any Indian who—

''(1) as a result of employment in or near a uranium mine or mill or near any other environmental hazard, suffers from a work related illness or condition;

''(2) is eligible to receive diagnosis and treatment services from a Service facility; and

''(3) by reason of such Indian's employment, is entitled to medical care at the expense of such mine or mill operator or entity responsible for the environmental hazard;

the Service shall, at the request of such Indian, render appropriate medical care to such Indian for such illness or condition and may recover the costs of any medical care so rendered to which such Indian is entitled at the expense of such operator or entity from such operator or entity. Nothing in this subsection shall affect the rights of such Indian to recover damages other than such costs paid to the Service from the employer for such illness or condition.

"SEC. 216. ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

''(a) IN GENERAL.—For fiscal years beginning with the fiscal year ending September 30, 1983, and ending with the fiscal year ending September 30, 2013, the State of Arizona shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of Arizona.

''(b) LIMITATION.—The Service shall not curtail any health care services provided to Indians residing on Federal reservations in the State of Arizona if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a).

"SEC. 216A. NORTH DAKOTA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

''(a) IN GENERAL.—For fiscal years beginning with the fiscal year ending September 30, 2001, and ending with the fiscal year ending September 30, 2013, the State of North Dakota shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of North Dakota.

''(b) LIMITATION.—The Service shall not curtail any health care services provided to Indians residing on Federal reservations in the State of North Dakota if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a).

"SEC. 216B. SOUTH DAKOTA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

''(a) IN GENERAL.—For fiscal years beginning with the fiscal year ending September 30, 2001, and ending with the fiscal year ending September 30, 2013, the State of South Dakota shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of South Dakota.

''(b) LIMITATION.—The Service shall not curtail any health care services provided to Indians residing on Federal reservations in the State of South Dakota if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a).

"SEC. 217. CALIFORNIA CONTRACT HEALTH SERVICES DEMONSTRATION PROGRAM.

''(a) IN GENERAL.—The Secretary may fund a program that utilizes the California Rural Indian Health Board as a contract care intermediary to improve the accessibility of health services to California Indians.

''(b) REIMBURSEMENT OF BOARD.—

''(1) AGREEMENT.—The Secretary shall enter into an agreement with the California Rural Indian Health Board to reimburse the Board for costs (including reasonable administrative costs) incurred pursuant to this section in providing medical treatment under contract to California Indians described in section 809(b) throughout the California contract health services delivery area described in section 218 with respect to high-cost contract care cases.

''(2) ADMINISTRATION.—Not more than 5 percent of the amounts provided to the Board under this section for any fiscal year may be used for reimbursement for administrative expenses incurred by the Board during such fiscal year.

''(3) LIMITATION.—No payment may be made for treatment provided under this section to the extent that payment may be made for such treatment under the Catastrophic Health Emergency Fund described in section 202 or from amounts appropriated or otherwise made available to the California contract health service delivery area for a fiscal year.

''(c) ADVISORY BOARD.—There is hereby established an advisory board that shall advise the California Rural Indian Health Board in carrying out this section. The advisory board shall be composed of representatives, selected by the California Rural Indian Health Board, from not less than 8 tribal health programs serving California Indians covered under this section, at least 50 percent of whom are not affiliated with the California Rural Indian Health Board.

''SEC. 218. CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

''The State of California, excluding the counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, Santa Clara, Kern, Merced, Monterey, Napa, San Benito, San Joaquin, San Luis Obispo, Santa Cruz, Solano, Stanislaus, and Ventura shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health services to Indians in such State, except that any of the counties described in this section may be included in the contract health services delivery area if funding is specifically provided by the Service for such services in those counties.

''SEC. 219. CONTRACT HEALTH SERVICES FOR THE TRENTON SERVICE AREA.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall provide contract health services to members of the Turtle Mountain Band of Chippewa Indians that reside in the Trenton Service Area of Divide, McKenzie, and Williams counties in the State of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the State of Montana.

''(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as expanding the eligibility of members of the Turtle Mountain Band of Chippewa Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

''SEC. 220. PROGRAMS OPERATED BY INDIAN TRIBES AND TRIBAL ORGANIZATIONS.

''The Service shall provide funds for health care programs and facilities operated by Indian tribes and tribal organizations under funding agreements with the Service entered into under the Indian Self-Determination and Education Assistance Act on the same basis as such funds are provided to programs and facilities operated directly by the Service.

''SEC. 221. LICENSING.

''Health care professionals employed by Indian Tribes and tribal organizations to carry out agreements under the Indian Self-Determination and Education Assistance Act, shall, if licensed in any State, be exempt from the licensing requirements of the State in which the agreement is performed.

''SEC. 222. AUTHORIZATION FOR EMERGENCY CONTRACT HEALTH SERVICES.

''With respect to an elderly Indian or an Indian with a disability receiving emergency medical care or services from a non-Service provider or in a non-Service facility under the authority of this Act, the time limitation (as a condition of payment) for notifying the Service of such treatment or admission shall be 30 days.

''SEC. 223. PROMPT ACTION ON PAYMENT OF CLAIMS.

''(a) REQUIREMENT.—The Service shall respond to a notification of a claim by a provider of a contract care service with either an individual purchase order or a denial of the claim within 5 working days after the receipt of such notification.

''(b) FAILURE TO RESPOND.—If the Service fails to respond to a notification of a claim in accordance with subsection (a), the Service shall accept as valid the claim submitted by the provider of a contract care service.

''(c) PAYMENT.—The Service shall pay a valid contract care service claim within 30 days after the completion of the claim.

''SEC. 224. LIABILITY FOR PAYMENT.

''(a) NO LIABILITY.—A patient who receives contract health care services that are authorized by the Service shall not be liable for the payment of any charges or costs associated with the provision of such services.

''(b) NOTIFICATION.—The Secretary shall notify a contract care provider and any patient who receives contract health care services authorized by the Service that such patient is not liable for the payment of any charges or costs associated with the provision of such services.

''(c) LIMITATION.—Following receipt of the notice provided under subsection (b), or, if a claim has been deemed accepted under section 223(b), the provider shall have no further recourse against the patient who received the services involved.

''SEC. 225. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2013 to carry out this title.

''TITLE III—FACILITIES

''SEC. 301. CONSULTATION, CONSTRUCTION AND RENOVATION OF FACILITIES; REPORTS.

''(a) CONSULTATION.—Prior to the expenditure of, or the making of any firm commitment to expend, any funds appropriated for the planning, design, construction, or renovation of facilities pursuant to the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary, acting through the Service, shall—

''(1) consult with any Indian tribe that would be significantly affected by such expenditure for the purpose of determining and, whenever practicable, honoring tribal preferences concerning size, location, type, and other characteristics of any facility on which such expenditure is to be made; and

''(2) ensure, whenever practicable, that such facility meets the construction standards of any nationally recognized accrediting body by not later than 1 year after the date on which the construction or renovation of such facility is completed.

''(b) CLOSURE OF FACILITIES.—

''(1) IN GENERAL.—Notwithstanding any provision of law other than this subsection, no Service hospital or outpatient health care facility or any inpatient service or special care facility operated by the Service, may be closed if the Secretary has not submitted to the Congress at least 1 year prior to the date such proposed closure an evaluation of the impact of such proposed closure which specifies, in addition to other considerations—

''(A) the accessibility of alternative health care resources for the population served by such hospital or facility;

''(B) the cost effectiveness of such closure;

''(C) the quality of health care to be provided to the population served by such hospital or facility after such closure;

''(D) the availability of contract health care funds to maintain existing levels of service;

''(E) the views of the Indian tribes served by such hospital or facility concerning such closure;

''(F) the level of utilization of such hospital or facility by all eligible Indians; and

''(G) the distance between such hospital or facility and the nearest operating Service hospital.

''(2) TEMPORARY CLOSURE.—Paragraph (1) shall not apply to any temporary closure of a facility or of any portion of a facility if such closure is necessary for medical, environmental, or safety reasons.

''(c) PRIORITY SYSTEM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a health care facility priority system, that shall—

''(A) be developed with Indian tribes and tribal organizations through negotiated rulemaking under section 802;

''(B) give the needs of Indian tribes' the highest priority, with additional priority being given to those service areas where the health status of Indians within the area, as measured by life expectancy based upon the most recent data available, is significantly lower than the average health status for Indians in all service areas; and

''(C) at a minimum, include the lists required in paragraph (2)(B) and the methodology required in paragraph (2)(E);

except that the priority of any project established under the construction priority system in effect on the date of this Act shall not be affected by any change in the construction priority system taking place thereafter if the project was identified as one of the top 10 priority inpatient projects or one of the top 10 outpatient projects in the Indian Health Service budget justification for fiscal year 2001, or if the project had completed both Phase I and Phase II of the construction priority system in effect on the date of this Act.

''(2) REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report that includes—

''(A) a description of the health care facility priority system of the Service, as established under paragraph (1);

''(B) health care facility lists, including—

''(i) the total health care facility planning, design, construction and renovation needs for Indians;

''(ii) the 10 top-priority inpatient care facilities;

''(iii) the 10 top-priority outpatient care facilities;

''(iv) the 10 top-priority specialized care facilities (such as long-term care and alcohol and drug abuse treatment); and

''(v) any staff quarters associated with such prioritized facilities;

''(C) the justification for the order of priority among facilities;

''(D) the projected cost of the projects involved; and

''(E) the methodology adopted by the Service in establishing priorities under its health care facility priority system.

''(3) CONSULTATION.—In preparing each report required under paragraph (2) (other than the initial report) the Secretary shall annually—

''(A) consult with, and obtain information on all health care facilities needs from, Indian tribes and tribal organizations including those tribes or tribal organizations operating health programs or facilities under any funding agreement entered into with the

Service under the Indian Self-Determination and Education Assistance Act; and

''(B) review the total unmet needs of all tribes and tribal organizations for health care facilities (including staff quarters), including needs for renovation and expansion of existing facilities.

''(4) CRITERIA.—For purposes of this subsection, the Secretary shall, in evaluating the needs of facilities operated under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act, use the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service.

''(5) EQUITABLE INTEGRATION.—The Secretary shall ensure that the planning, design, construction, and renovation needs of Service and non-Service facilities, operated under funding agreements in accordance with the Indian Self-Determination and Education Assistance Act are fully and equitably integrated into the health care facility priority system.

''(d) REVIEW OF NEED FOR FACILITIES.—

''(1) REPORT.—Beginning in 2002, the Secretary shall annually submit to the President, for inclusion in the report required to be transmitted to Congress under section 801 of this Act, a report which sets forth the needs of the Service and all Indian tribes and tribal organizations, including urban Indian organizations, for inpatient, outpatient and specialized care facilities, including the needs for renovation and expansion of existing facilities.

''(2) CONSULTATION.—In preparing each report required under paragraph (1) (other than the initial report), the Secretary shall consult with Indian tribes and tribal organizations including those tribes or tribal organizations operating health programs or facilities under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act, and with urban Indian organizations.

''(3) CRITERIA.—For purposes of this subsection, the Secretary shall, in evaluating the needs of facilities operated under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act, use the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service.

''(4) EQUITABLE INTEGRATION.—The Secretary shall ensure that the planning, design, construction, and renovation needs of facilities operated under funding agreements, in accordance with the Indian Self-Determination and Education Assistance Act, are fully and equitably integrated into the development of the health facility priority system.

''(5) ANNUAL NOMINATIONS.—Each year the Secretary shall provide an opportunity for the nomination of planning, design, and construction projects by the Service and all Indian tribes and tribal organizations for consideration under the health care facility priority system.

''(e) INCLUSION OF CERTAIN PROGRAMS.—All funds appropriated under the Act of November 2, 1921 (25 U.S.C. 13), for the planning, design, construction, or renovation of health facilities for the benefit of an Indian tribe or tribes shall be subject to the provisions of section 102 of the Indian Self-Determination and Education Assistance Act.

''(f) INNOVATIVE APPROACHES.—The Secretary shall consult and cooperate with Indian tribes, tribal organizations and urban Indian organizations in developing innovative approaches to address all or part of the total unmet need for construction of health facilities, including those provided for in other sections of this title and other approaches.

''SEC. 302. SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES.

''(a) FINDINGS.—Congress finds and declares that—

''(1) the provision of safe water supply facilities and sanitary sewage and solid waste disposal facilities is primarily a health consideration and function;

''(2) Indian people suffer an inordinately high incidence of disease, injury, and illness directly attributable to the absence or inadequacy of such facilities;

''(3) the long-term cost to the United States of treating and curing such disease, injury, and illness is substantially greater than the short-term cost of providing such facilities and other preventive health measures;

''(4) many Indian homes and communities still lack safe water supply facilities and sanitary sewage and solid waste disposal facilities; and

''(5) it is in the interest of the United States, and it is the policy of the United States, that all Indian communities and Indian homes, new and existing, be provided with safe and adequate water supply facilities and sanitary sewage waste disposal facilities as soon as possible.

''(b) PROVISION OF FACILITIES AND SERVICES.—

''(1) IN GENERAL.—In furtherance of the findings and declarations made in subsection (a), Congress reaffirms the primary responsibility and authority of the Service to provide the necessary sanitation facilities and services as provided in section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

''(2) ASSISTANCE.—The Secretary, acting through the Service, is authorized to provide under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a)—

''(A) financial and technical assistance to Indian tribes, tribal organizations and Indian communities in the establishment, training, and equipping of utility organizations to operate and maintain Indian sanitation facilities, including the provision of existing plans, standard details, and specifications available in the Department, to be used at the option of the tribe or tribal organization;

''(B) ongoing technical assistance and training in the management of utility organizations which operate and maintain sanitation facilities; and

''(C) priority funding for the operation, and maintenance assistance for, and emergency repairs to, tribal sanitation facilities when necessary to avoid an imminent health threat or to protect the investment in sanitation facilities and the investment in the health benefits gained through the provision of sanitation facilities.

''(3) PROVISIONS RELATING TO FUNDING.—Notwithstanding any other provision of law—

''(A) the Secretary of Housing and Urban Development is authorized to transfer funds appropriated under the Native American Housing Assistance and Self-Determination Act of 1996 to the Secretary of Health and Human Services;

''(B) the Secretary of Health and Human Services is authorized to accept and use such funds for the purpose of providing sanitation facilities and services for Indians under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a);

''(C) unless specifically authorized when funds are appropriated, the Secretary of Health and Human Services shall not use funds appropriated under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a) to provide sanitation facilities to new homes constructed using funds provided by the Department of Housing and Urban Development;

''(D) the Secretary of Health and Human Services is authorized to accept all Federal funds that are available for the purpose of providing sanitation facilities and related services and place those funds into funding agreements, authorized under the Indian Self-Determination and Education Assistance Act, between the Secretary and Indian tribes and tribal organizations;

''(E) the Secretary may permit funds appropriated under the authority of section 4 of the Act of August 5, 1954 (42 U.S.C. 2004) to be used to fund up to 100 percent of the amount of a tribe's loan obtained under any Federal program for new projects to construct eligible sanitation facilities to serve Indian homes;

''(F) the Secretary may permit funds appropriated under the authority of section 4 of the Act of August 5, 1954 (42 U.S.C. 2004) to be used to meet matching or cost participation requirements under other Federal and non-Federal programs for new projects to construct eligible sanitation facilities;

''(G) all Federal agencies are authorized to transfer to the Secretary funds identified, granted, loaned or appropriated and thereafter the Department's applicable policies, rules, regulations shall apply in the implementation of such projects;

''(H) the Secretary of Health and Human Services shall enter into inter-agency agreements with the Bureau of Indian Affairs, the Department of Housing and Urban Development, the Department of Agriculture, the Environmental Protection Agency and other appropriate Federal agencies, for the purpose of providing financial assistance for safe water supply and sanitary sewage disposal facilities under this Act; and

''(I) the Secretary of Health and Human Services shall, by regulation developed through rulemaking under section 802, establish standards applicable to the planning, design and construction of water supply and sanitary sewage and solid waste disposal facilities funded under this Act.

''(c) 10-YEAR FUNDING PLAN.—The Secretary, acting through the Service and in consultation with Indian tribes and tribal organizations, shall develop and implement a 10-year funding plan to provide safe water supply and sanitary sewage and solid waste disposal facilities serving existing Indian homes and communities, and to new and renovated Indian homes.

''(d) CAPABILITY OF TRIBE OR COMMUNITY.—The financial and technical capability of an Indian tribe or community to safely operate and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary.

''(e) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to Indian tribes, tribal organizations and communities for the operation, management, and maintenance of their sanitation facilities.

''(f) RESPONSIBILITY FOR FEES FOR OPERATION AND MAINTENANCE.—The Indian family, community or tribe involved shall have the primary responsibility to establish, collect, and use reasonable user fees, or otherwise set aside funding, for the purpose of operating and maintaining sanitation facilities. If a community facility is threatened with imminent failure and there is a lack of tribal capacity to maintain the integrity or the

health benefit of the facility, the Secretary may assist the Tribe in the resolution of the problem on a short term basis through cooperation with the emergency coordinator or by providing operation and maintenance service.

''(g) ELIGIBILITY OF CERTAIN TRIBES OR ORGANIZATIONS.—Programs administered by Indian tribes or tribal organizations under the authority of the Indian Self-Determination and Education Assistance Act shall be eligible for—

''(1) any funds appropriated pursuant to this section; and

''(2) any funds appropriated for the purpose of providing water supply, sewage disposal, or solid waste facilities;

on an equal basis with programs that are administered directly by the Service.

''(h) REPORT.—

''(1) IN GENERAL.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report which sets forth—

''(A) the current Indian sanitation facility priority system of the Service;

''(B) the methodology for determining sanitation deficiencies;

''(C) the level of initial and final sanitation deficiency for each type sanitation facility for each project of each Indian tribe or community; and

''(D) the amount of funds necessary to reduce the identified sanitation deficiency levels of all Indian tribes and communities to a level I sanitation deficiency as described in paragraph (4)(A).

''(2) CONSULTATION.—In preparing each report required under paragraph (1), the Secretary shall consult with Indian tribes and tribal organizations (including those tribes or tribal organizations operating health care programs or facilities under any funding agreements entered into with the Service under the Indian Self-Determination and Education Assistance Act) to determine the sanitation needs of each tribe and in developing the criteria on which the needs will be evaluated through a process of negotiated rulemaking.

''(3) METHODOLOGY.—The methodology used by the Secretary in determining, preparing cost estimates for and reporting sanitation deficiencies for purposes of paragraph (1) shall be applied uniformly to all Indian tribes and communities.

''(4) SANITATION DEFICIENCY LEVELS.—For purposes of this subsection, the sanitation deficiency levels for an individual or community sanitation facility serving Indian homes are as follows:

''(A) A level I deficiency is a sanitation facility serving and individual or community—

''(i) which complies with all applicable water supply, pollution control and solid waste disposal laws; and

''(ii) in which the deficiencies relate to routine replacement, repair, or maintenance needs.

''(B) A level II deficiency is a sanitation facility serving and individual or community—

''(i) which substantially or recently complied with all applicable water supply, pollution control and solid waste laws, in which the deficiencies relate to small or minor capital improvements needed to bring the facility back into compliance;

''(ii) in which the deficiencies relate to capital improvements that are necessary to enlarge or improve the facilities in order to meet the current needs for domestic sanitation facilities; or

''(iii) in which the deficiencies relate to the lack of equipment or training by an Indian Tribe or community to properly operate and maintain the sanitation facilities.

''(C) A level III deficiency is an individual or community facility with water or sewer service in the home, piped services or a haul system with holding tanks and interior plumbing, or where major significant interruptions to water supply or sewage disposal occur frequently, requiring major capital improvements to correct the deficiencies. There is no access to or no approved or permitted solid waste facility available.

''(D) A level IV deficiency is an individual or community facility where there are no piped water or sewer facilities in the home or the facility has become inoperable due to major component failure or where only a washeteria or central facility exists.

''(E) A level V deficiency is the absence of a sanitation facility, where individual homes do not have access to safe drinking water or adequate wastewater disposal.

''(i) DEFINITIONS.—In this section:

''(1) FACILITY.—The terms 'facility' or 'facilities' shall have the same meaning as the terms 'system' or 'systems' unless the context requires otherwise.

''(2) INDIAN COMMUNITY.—The term 'Indian community' means a geographic area, a significant proportion of whose inhabitants are Indians and which is served by or capable of being served by a facility described in this section.

''SEC. 303. PREFERENCE TO INDIANS AND INDIAN FIRMS.

''(a) IN GENERAL.—The Secretary, acting through the Service, may utilize the negotiating authority of the Act of June 25, 1910 (25 U.S.C. 47), to give preference to any Indian or any enterprise, partnership, corporation, or other type of business organization owned and controlled by an Indian or Indians including former or currently federally recognized Indian tribes in the State of New York (hereinafter referred to as an 'Indian firm') in the construction and renovation of Service facilities pursuant to section 301 and in the construction of safe water and sanitary waste disposal facilities pursuant to section 302. Such preference may be accorded by the Secretary unless the Secretary finds, pursuant to rules and regulations promulgated by the Secretary, that the project or function to be contracted for will not be satisfactory or such project or function cannot be properly completed or maintained under the proposed contract. The Secretary, in arriving at such finding, shall consider whether the Indian or Indian firm will be deficient with respect to—

''(1) ownership and control by Indians;

''(2) equipment;

''(3) bookkeeping and accounting procedures;

''(4) substantive knowledge of the project or function to be contracted for;

''(5) adequately trained personnel; or

''(6) other necessary components of contract performance.

''(b) EXEMPTION FROM DAVIS-BACON.—For the purpose of implementing the provisions of this title, construction or renovation of facilities constructed or renovated in whole or in part by funds made available pursuant to this title are exempt from the Act of March 3, 1931 (40 U.S.C. 276a—276a–5, known as the Davis-Bacon Act). For all health facilities, staff quarters and sanitation facilities, construction and renovation subcontractors shall be paid wages at rates that are not less than the prevailing wage rates for similar construction in the locality involved, as determined by the Indian tribe, Tribes, or tribal organizations served by such facilities.

''SEC. 304. SOBOBA SANITATION FACILITIES.

''Nothing in the Act of December 17, 1970 (84 Stat. 1465) shall be construed to preclude the Soboba Band of Mission Indians and the Soboba Indian Reservation from being provided with sanitation facilities and services under the authority of section 7 of the Act of August 5, 1954 (68 Stat 674), as amended by the Act of July 31, 1959 (73 Stat. 267).

''SEC. 305. EXPENDITURE OF NONSERVICE FUNDS FOR RENOVATION.

''(a) PERMISSIBILITY.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary is authorized to accept any major expansion, renovation or modernization by any Indian tribe of any Service facility, or of any other Indian health facility operated pursuant to a funding agreement entered into under the Indian Self-Determination and Education Assistance Act, including—

''(A) any plans or designs for such expansion, renovation or modernization; and

''(B) any expansion, renovation or modernization for which funds appropriated under any Federal law were lawfully expended;

but only if the requirements of subsection (b) are met.

''(2) PRIORITY LIST.—The Secretary shall maintain a separate priority list to address the need for increased operating expenses, personnel or equipment for such facilities described in paragraph (1). The methodology for establishing priorities shall be developed by negotiated rulemaking under section 802. The list of priority facilities will be revised annually in consultation with Indian tribes and tribal organizations.

''(3) REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, the priority list maintained pursuant to paragraph (2).

''(b) REQUIREMENTS.—The requirements of this subsection are met with respect to any expansion, renovation or modernization if—

''(1) the tribe or tribal organization—

''(A) provides notice to the Secretary of its intent to expand, renovate or modernize; and

''(B) applies to the Secretary to be placed on a separate priority list to address the needs of such new facilities for increased operating expenses, personnel or equipment; and

''(2) the expansion renovation or modernization—

''(A) is approved by the appropriate area director of the Service for Federal facilities; and

''(B) is administered by the Indian tribe or tribal organization in accordance with any applicable regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.

''(c) RIGHT OF TRIBE IN CASE OF FAILURE OF FACILITY TO BE USED AS A SERVICE FACILITY.—If any Service facility which has been expanded, renovated or modernized by an Indian tribe under this section ceases to be used as a Service facility during the 20-year period beginning on the date such expansion, renovation or modernization is completed, such Indian tribe shall be entitled to recover from the United States an amount which bears the same ratio to the value of such facility at the time of such cessation as the value of such expansion, renovation or modernization (less the total amount of any funds provided specifically for such facility under any Federal program that were expended for such expansion, renovation or modernization) bore to the value of such facility at the time of the completion of such expansion, renovation or modernization.

"SEC. 306. FUNDING FOR THE CONSTRUCTION, EXPANSION, AND MODERNIZATION OF SMALL AMBULATORY CARE FACILITIES.

''(a) AVAILABILITY OF FUNDING.—

''(1) IN GENERAL.—The Secretary, acting through the Service and in consultation with Indian tribes and tribal organizations, shall make funding available to tribes and tribal organizations for the construction, expansion, or modernization of facilities for the provision of ambulatory care services to eligible Indians (and noneligible persons as provided for in subsections (b)(2) and (c)(1)(C)). Funding under this section may cover up to 100 percent of the costs of such construction, expansion, or modernization. For the purposes of this section, the term 'construction' includes the replacement of an existing facility.

''(2) REQUIREMENT.—Funding under paragraph (1) may only be made available to an Indian tribe or tribal organization operating an Indian health facility (other than a facility owned or constructed by the Service, including a facility originally owned or constructed by the Service and transferred to an Indian tribe or tribal organization) pursuant to a funding agreement entered into under the Indian Self-Determination and Education Assistance Act.

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—Funds provided under this section may be used only for the construction, expansion, or modernization (including the planning and design of such construction, expansion, or modernization) of an ambulatory care facility—

''(A) located apart from a hospital;

''(B) not funded under section 301 or section 307; and

''(C) which, upon completion of such construction, expansion, or modernization will—

''(i) have a total capacity appropriate to its projected service population;

''(ii) provide annually not less than 500 patient visits by eligible Indians and other users who are eligible for services in such facility in accordance with section 807(b)(1)(B); and

''(iii) provide ambulatory care in a service area (specified in the funding agreement entered into under the Indian Self-Determination and Education Assistance Act) with a population of not less than 1,500 eligible Indians and other users who are eligible for services in such facility in accordance with section 807(b)(1)(B).

''(2) LIMITATION.—Funding provided under this section may be used only for the cost of that portion of a construction, expansion or modernization project that benefits the service population described in clauses (ii) and (iii) of paragraph (1)(C). The requirements of such clauses (ii) and (iii) shall not apply to a tribe or tribal organization applying for funding under this section whose principal office for health care administration is located on an island or where such office is not located on a road system providing direct access to an inpatient hospital where care is available to the service population.

''(c) APPLICATION AND PRIORITY.—

''(1) APPLICATION.—No funding may be made available under this section unless an application for such funding has been submitted to and approved by the Secretary. An application or proposal for funding under this section shall be submitted in accordance with applicable regulations and shall set forth reasonable assurance by the applicant that, at all times after the construction, expansion, or modernization of a facility carried out pursuant to funding received under this section—

''(A) adequate financial support will be available for the provision of services at such facility;

''(B) such facility will be available to eligible Indians without regard to ability to pay or source of payment; and

''(C) such facility will, as feasible without diminishing the quality or quantity of services provided to eligible Indians, serve noneligible persons on a cost basis.

''(2) PRIORITY.—In awarding funds under this section, the Secretary shall give priority to tribes and tribal organizations that demonstrate—

''(A) a need for increased ambulatory care services; and

''(B) insufficient capacity to deliver such services.

''(d) FAILURE TO USE FACILITY AS HEALTH FACILITY.—If any facility (or portion thereof) with respect to which funds have been paid under this section, ceases, within 5 years after completion of the construction, expansion, or modernization carried out with such funds, to be utilized for the purposes of providing health care services to eligible Indians, all of the right, title, and interest in and to such facility (or portion thereof) shall transfer to the United States unless otherwise negotiated by the Service and the Indian tribe or tribal organization.

''(e) NO INCLUSION IN TRIBAL SHARE.—Funding provided to Indian tribes and tribal organizations under this section shall be non-recurring and shall not be available for inclusion in any individual tribe's tribal share for an award under the Indian Self-Determination and Education Assistance Act or for reallocation or redesign thereunder.

"SEC. 307. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT.

''(a) HEALTH CARE DELIVERY DEMONSTRATION PROJECTS.—The Secretary, acting through the Service and in consultation with Indian tribes and tribal organizations, may enter into funding agreements with, or make grants or loan guarantees to, Indian tribes or tribal organizations for the purpose of carrying out a health care delivery demonstration project to test alternative means of delivering health care and services through health facilities, including hospice, traditional Indian health and child care facilities, to Indians.

''(b) USE OF FUNDS.—The Secretary, in approving projects pursuant to this section, may authorize funding for the construction and renovation of hospitals, health centers, health stations, and other facilities to deliver health care services and is authorized to—

''(1) waive any leasing prohibition;

''(2) permit carryover of funds appropriated for the provision of health care services;

''(3) permit the use of other available funds;

''(4) permit the use of funds or property donated from any source for project purposes;

''(5) provide for the reversion of donated real or personal property to the donor; and

''(6) permit the use of Service funds to match other funds, including Federal funds.

''(c) CRITERIA.—

''(1) IN GENERAL.—The Secretary shall develop and publish regulations through rulemaking under section 802 for the review and approval of applications submitted under this section. The Secretary may enter into a contract, funding agreement or award a grant under this section for projects which meet the following criteria:

''(A) There is a need for a new facility or program or the reorientation of an existing facility or program.

''(B) A significant number of Indians, including those with low health status, will be served by the project.

''(C) The project has the potential to address the health needs of Indians in an innovative manner.

''(D) The project has the potential to deliver services in an efficient and effective manner.

''(E) The project is economically viable.

''(F) The Indian tribe or tribal organization has the administrative and financial capability to administer the project.

''(G) The project is integrated with providers of related health and social services and is coordinated with, and avoids duplication of, existing services.

''(2) PEER REVIEW PANELS.—The Secretary may provide for the establishment of peer review panels, as necessary, to review and evaluate applications and to advise the Secretary regarding such applications using the criteria developed pursuant to paragraph (1).

''(3) PRIORITY.—The Secretary shall give priority to applications for demonstration projects under this section in each of the following service units to the extent that such applications are filed in a timely manner and otherwise meet the criteria specified in paragraph (1):

''(A) Cass Lake, Minnesota.

''(B) Clinton, Oklahoma.

''(C) Harlem, Montana.

''(D) Mescalero, New Mexico.

''(E) Owyhee, Nevada.

''(F) Parker, Arizona.

''(G) Schurz, Nevada.

''(H) Winnebago, Nebraska.

''(I) Ft. Yuma, California.

''(d) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

''(e) SERVICE TO INELIGIBLE PERSONS.—The authority to provide services to persons otherwise ineligible for the health care benefits of the Service and the authority to extend hospital privileges in Service facilities to non-Service health care practitioners as provided in section 807 may be included, subject to the terms of such section, in any demonstration project approved pursuant to this section.

''(f) EQUITABLE TREATMENT.—For purposes of subsection (c)(1)(A), the Secretary shall, in evaluating facilities operated under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act, use the same criteria that the Secretary uses in evaluating facilities operated directly by the Service.

''(g) EQUITABLE INTEGRATION OF FACILITIES.—The Secretary shall ensure that the planning, design, construction, renovation and expansion needs of Service and non-Service facilities which are the subject of a funding agreement for health services entered into with the Service under the Indian Self-Determination and Education Assistance Act, are fully and equitably integrated into the implementation of the health care delivery demonstration projects under this section.

"SEC. 308. LAND TRANSFER.

''(a) GENERAL AUTHORITY FOR TRANSFERS.—Notwithstanding any other provision of law, the Bureau of Indian Affairs and all other agencies and departments of the United States are authorized to transfer, at no cost, land and improvements to the Service for the provision of health care services. The Secretary is authorized to accept such land and improvements for such purposes.

''(b) CHEMAWA INDIAN SCHOOL.—The Bureau of Indian Affairs is authorized to transfer, at no cost, up to 5 acres of land at the Chemawa Indian School, Salem, Oregon, to the Service for the provision of health care services. The land authorized to be transferred by this section is that land adjacent to land under the jurisdiction of the Service and occupied by the Chemawa Indian Health Center.

''SEC. 309. LEASES.

''(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary is authorized, in carrying out the purposes of this Act, to enter into leases with Indian tribes and tribal organizations for periods not in excess of 20 years. Property leased by the Secretary from an Indian tribe or tribal organization may be reconstructed or renovated by the Secretary pursuant to an agreement with such Indian tribe or tribal organization.

''(b) FACILITIES FOR THE ADMINISTRATION AND DELIVERY OF HEALTH SERVICES.—The Secretary may enter into leases, contracts, and other legal agreements with Indian tribes or tribal organizations which hold—

''(1) title to;

''(2) a leasehold interest in; or

''(3) a beneficial interest in (where title is held by the United States in trust for the benefit of a tribe);

facilities used for the administration and delivery of health services by the Service or by programs operated by Indian tribes or tribal organizations to compensate such Indian tribes or tribal organizations for costs associated with the use of such facilities for such purposes, and such leases shall be considered as operating leases for the purposes of scoring under the Budget Enforcement Act, notwithstanding any other provision of law. Such costs include rent, depreciation based on the useful life of the building, principal and interest paid or accrued, operation and maintenance expenses, and other expenses determined by regulation to be allowable pursuant to regulations under section 105(l) of the Indian Self-Determination and Education Assistance Act.

''SEC. 310. LOANS, LOAN GUARANTEES AND LOAN REPAYMENT.

''(a) HEALTH CARE FACILITIES LOAN FUND.—There is established in the Treasury of the United States a fund to be known as the 'Health Care Facilities Loan Fund' (referred to in this Act as the 'HCFLF') to provide to Indian Tribes and tribal organizations direct loans, or guarantees for loans, for the construction of health care facilities (including inpatient facilities, outpatient facilities, associated staff quarters and specialized care facilities such as behavioral health and elder care facilities).

''(b) STANDARDS AND PROCEDURES.—The Secretary may promulgate regulations, developed through rulemaking as provided for in section 802, to establish standards and procedures for governing loans and loan guarantees under this section, subject to the following conditions:

''(1) The principal amount of a loan or loan guarantee may cover up to 100 percent of eligible costs, including costs for the planning, design, financing, site land development, construction, rehabilitation, renovation, conversion, improvements, medical equipment and furnishings, other facility related costs and capital purchase (but excluding staffing).

''(2) The cumulative total of the principal of direct loans and loan guarantees, respectively, outstanding at any one time shall not exceed such limitations as may be specified in appropriation Acts.

''(3) In the discretion of the Secretary, the program under this section may be administered by the Service or the Health Resources and Services Administration (which shall be specified by regulation).

''(4) The Secretary may make or guarantee a loan with a term of the useful estimated life of the facility, or 25 years, whichever is less.

''(5) The Secretary may allocate up to 100 percent of the funds available for loans or loan guarantees in any year for the purpose of planning and applying for a loan or loan guarantee.

''(6) The Secretary may accept an assignment of the revenue of an Indian tribe or tribal organization as security for any direct loan or loan guarantee under this section.

''(7) In the planning and design of health facilities under this section, users eligible under section 807(b) may be included in any projection of patient population.

''(8) The Secretary shall not collect loan application, processing or other similar fees from Indian tribes or tribal organizations applying for direct loans or loan guarantees under this section.

''(9) Service funds authorized under loans or loan guarantees under this section may be used in matching other Federal funds.

''(c) FUNDING.—

''(1) IN GENERAL.—The HCFLF shall consist of—

''(A) such sums as may be initially appropriated to the HCFLF and as may be subsequently appropriated under paragraph (2);

''(B) such amounts as may be collected from borrowers; and

''(C) all interest earned on amounts in the HCFLF.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to initiate the HCFLF. For each fiscal year after the initial year in which funds are appropriated to the HCFLF, there is authorized to be appropriated an amount equal to the sum of the amount collected by the HCFLF during the preceding fiscal year, and all accrued interest on such amounts.

''(3) AVAILABILITY OF FUNDS.—Amounts appropriated, collected or earned relative to the HCFLF shall remain available until expended.

''(d) FUNDING AGREEMENTS.—Amounts in the HCFLF and available pursuant to appropriation Acts may be expended by the Secretary, acting through the Service, to make loans under this section to an Indian tribe or tribal organization pursuant to a funding agreement entered into under the Indian Self-Determination and Education Assistance Act.

''(e) INVESTMENTS.—The Secretary of the Treasury shall invest such amounts of the HCFLF as such Secretary determines are not required to meet current withdrawals from the HCFLF. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price. Any obligation acquired by the fund may be sold by the Secretary of the Treasury at the market price.

''(f) GRANTS.—The Secretary is authorized to establish a program to provide grants to Indian tribes and tribal organizations for the purpose of repaying all or part of any loan obtained by an Indian tribe or tribal organization for construction and renovation of health care facilities (including inpatient facilities, outpatient facilities, associated staff quarters and specialized care facilities). Loans eligible for such repayment grants shall include loans that have been obtained under this section or otherwise.

''SEC. 311. TRIBAL LEASING.

''Indian Tribes and tribal organizations providing health care services pursuant to a funding agreement contract entered into under the Indian Self-Determination and Education Assistance Act may lease permanent structures for the purpose of providing such health care services without obtaining advance approval in appropriation Acts.

''SEC. 312. INDIAN HEALTH SERVICE/TRIBAL FACILITIES JOINT VENTURE PROGRAM.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall make arrangements with Indian tribes and tribal organizations to establish joint venture demonstration projects under which an Indian tribe or tribal organization shall expend tribal, private, or other available funds, for the acquisition or construction of a health facility for a minimum of 10 years, under a no-cost lease, in exchange for agreement by the Service to provide the equipment, supplies, and staffing for the operation and maintenance of such a health facility.

''(2) USE OF RESOURCES.—A tribe or tribal organization may utilize tribal funds, private sector, or other available resources, including loan guarantees, to fulfill its commitment under this subsection.

''(3) ELIGIBILITY OF CERTAIN ENTITIES.—A tribe that has begun and substantially completed the process of acquisition or construction of a health facility shall be eligible to establish a joint venture project with the Service using such health facility.

''(b) REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary shall enter into an arrangement under subsection (a)(1) with an Indian tribe or tribal organization only if—

''(A) the Secretary first determines that the Indian tribe or tribal organization has the administrative and financial capabilities necessary to complete the timely acquisition or construction of the health facility described in subsection (a)(1); and

''(B) the Indian tribe or tribal organization meets the needs criteria that shall be developed through the negotiated rulemaking process provided for under section 802.

''(2) CONTINUED OPERATION OF FACILITY.—The Secretary shall negotiate an agreement with the Indian tribe or tribal organization regarding the continued operation of a facility under this section at the end of the initial 10 year no-cost lease period.

''(3) BREACH OR TERMINATION OF AGREEMENT.—An Indian tribe or tribal organization that has entered into a written agreement with the Secretary under this section, and that breaches or terminates without cause such agreement, shall be liable to the United States for the amount that has been paid to the tribe or tribal organization, or paid to a third party on the tribe's or tribal organization's behalf, under the agreement. The Secretary has the right to recover tangible property (including supplies), and equipment, less depreciation, and any funds expended for operations and maintenance under this section. The preceding sentence shall not apply to any funds expended for the delivery of health care services, or for personnel or staffing.

''(d) RECOVERY FOR NON-USE.—An Indian tribe or tribal organization that has entered into a written agreement with the Secretary under this section shall be entitled to recover from the United States an amount

that is proportional to the value of such facility should at any time within 10 years the Service ceases to use the facility or otherwise breaches the agreement.

''(e) DEFINITION.—In this section, the terms 'health facility' or 'health facilities' include staff quarters needed to provide housing for the staff of the tribal health program.

"SEC. 313. LOCATION OF FACILITIES.

''(a) PRIORITY.—The Bureau of Indian Affairs and the Service shall, in all matters involving the reorganization or development of Service facilities, or in the establishment of related employment projects to address unemployment conditions in economically depressed areas, give priority to locating such facilities and projects on Indian lands if requested by the Indian owner and the Indian tribe with jurisdiction over such lands or other lands owned or leased by the Indian tribe or tribal organization so long as priority is given to Indian land owned by an Indian tribe or tribes.

''(b) DEFINITION.—In this section, the term 'Indian lands' means—

''(1) all lands within the exterior boundaries of any Indian reservation;

''(2) any lands title to which is held in trust by the United States for the benefit of any Indian tribe or individual Indian, or held by any Indian tribe or individual Indian subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power; and

''(3) all lands in Alaska owned by any Alaska Native village, or any village or regional corporation under the Alaska Native Claims Settlement Act, or any land allotted to any Alaska Native.

"SEC. 314. MAINTENANCE AND IMPROVEMENT OF HEALTH CARE FACILITIES.

''(a) REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be transmitted to Congress under section 801, a report that identifies the backlog of maintenance and repair work required at both Service and tribal facilities, including new facilities expected to be in operation in the fiscal year after the year for which the report is being prepared. The report shall identify the need for renovation and expansion of existing facilities to support the growth of health care programs.

''(b) MAINTENANCE OF NEWLY CONSTRUCTED SPACE.—

''(1) IN GENERAL.—The Secretary may expend maintenance and improvement funds to support the maintenance of newly constructed space only if such space falls within the approved supportable space allocation for the Indian tribe or tribal organization.

''(2) DEFINITION.—For purposes of paragraph (1), the term 'supportable space allocation' shall be defined through the negotiated rulemaking process provided for under section 802.

''(c) CONSTRUCTION OF REPLACEMENT FACILITIES.—

''(1) IN GENERAL.—In addition to using maintenance and improvement funds for the maintenance of facilities under subsection (b)(1), an Indian tribe or tribal organization may use such funds for the construction of a replacement facility if the costs of the renovation of such facility would exceed a maximum renovation cost threshold.

''(2) DEFINITION.—For purposes of paragraph (1), the term 'maximum renovation cost threshold' shall be defined through the negotiated rulemaking process provided for under section 802.

"SEC. 315. TRIBAL MANAGEMENT OF FEDERALLY-OWNED QUARTERS.

''(a) ESTABLISHMENT OF RENTAL RATES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, an Indian tribe or tribal organization which operates a hospital or other health facility and the Federally-owned quarters associated therewith, pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act, may establish the rental rates charged to the occupants of such quarters by providing notice to the Secretary of its election to exercise such authority.

''(2) OBJECTIVES.—In establishing rental rates under paragraph (1), an Indian tribe or tribal organization shall attempt to achieve the following objectives:

''(A) The rental rates should be based on the reasonable value of the quarters to the occupants thereof.

''(B) The rental rates should generate sufficient funds to prudently provide for the operation and maintenance of the quarters, and, subject to the discretion of the Indian tribe or tribal organization, to supply reserve funds for capital repairs and replacement of the quarters.

''(3) ELIGIBILITY FOR QUARTERS IMPROVEMENT AND REPAIR.—Any quarters whose rental rates are established by an Indian tribe or tribal organization under this subsection shall continue to be eligible for quarters improvement and repair funds to the same extent as other Federally-owned quarters that are used to house personnel in Service-supported programs.

''(4) NOTICE OF CHANGE IN RATES.—An Indian tribe or tribal organization that exercises the authority provided under this subsection shall provide occupants with not less than 60 days notice of any change in rental rates.

''(b) COLLECTION OF RENTS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, and subject to paragraph (2), an Indian tribe or a tribal organization that operates Federally-owned quarters pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act shall have the authority to collect rents directly from Federal employees who occupy such quarters in accordance with the following:

''(A) The Indian tribe or tribal organization shall notify the Secretary and the Federal employees involved of its election to exercise its authority to collect rents directly from such Federal employees.

''(B) Upon the receipt of a notice described in subparagraph (A), the Federal employees involved shall pay rents for the occupancy of such quarters directly to the Indian tribe or tribal organization and the Secretary shall have no further authority to collect rents from such employees through payroll deduction or otherwise.

''(C) Such rent payments shall be retained by the Indian tribe or tribal organization and shall not be made payable to or otherwise be deposited with the United States.

''(D) Such rent payments shall be deposited into a separate account which shall be used by the Indian tribe or tribal organization for the maintenance (including capital repairs and replacement expenses) and operation of the quarters and facilities as the Indian tribe or tribal organization shall determine appropriate.

''(2) RETROCESSION.—If an Indian tribe or tribal organization which has made an election under paragraph (1) requests retrocession of its authority to directly collect rents from Federal employees occupying Federally-owned quarters, such retrocession shall become effective on the earlier of—

''(A) the first day of the month that begins not less than 180 days after the Indian tribe or tribal organization notifies the Secretary of its desire to retrocede; or

''(B) such other date as may be mutually agreed upon by the Secretary and the Indian tribe or tribal organization.

''(c) RATES.—To the extent that an Indian tribe or tribal organization, pursuant to authority granted in subsection (a), establishes rental rates for Federally-owned quarters provided to a Federal employee in Alaska, such rents may be based on the cost of comparable private rental housing in the nearest established community with a year-round population of 1,500 or more individuals.

"SEC. 316. APPLICABILITY OF BUY AMERICAN REQUIREMENT.

''(a) IN GENERAL.—The Secretary shall ensure that the requirements of the Buy American Act apply to all procurements made with funds provided pursuant to the authorization contained in section 318, except that Indian tribes and tribal organizations shall be exempt from such requirements.

''(b) FALSE OR MISLEADING LABELING.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a 'Made in America' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to the authorization contained in section 318, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

(c) DEFINITION.—In this section, the term 'Buy American Act' means title III of the Act entitled 'An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes', approved March 3, 1933 (41 U.S.C. 10a et seq.).

"SEC. 317. OTHER FUNDING FOR FACILITIES.

''Notwithstanding any other provision of law—

''(1) the Secretary may accept from any source, including Federal and State agencies, funds that are available for the construction of health care facilities and use such funds to plan, design and construct health care facilities for Indians and to place such funds into funding agreements authorized under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f et seq.) between the Secretary and an Indian tribe or tribal organization, except that the receipt of such funds shall not have an effect on the priorities established pursuant to section 301;

''(2) the Secretary may enter into interagency agreements with other Federal or State agencies and other entities and to accept funds from such Federal or State agencies or other entities to provide for the planning, design and construction of health care facilities to be administered by the Service or by Indian tribes or tribal organizations under the Indian Self-Determination and Education Assistance Act in order to carry out the purposes of this Act, together with the purposes for which such funds are appropriated to such other Federal or State agency or for which the funds were otherwise provided;

''(3) any Federal agency to which funds for the construction of health care facilities are appropriated is authorized to transfer such funds to the Secretary for the construction of health care facilities to carry out the purposes of this Act as well as the purposes for which such funds are appropriated to such other Federal agency; and

''(4) the Secretary, acting through the Service, shall establish standards under regulations developed through rulemaking under section 802, for the planning, design and construction of health care facilities serving Indians under this Act.

''SEC. 318. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2013 to carry out this title.

''TITLE IV—ACCESS TO HEALTH SERVICES

''SEC. 401. TREATMENT OF PAYMENTS UNDER MEDICARE PROGRAM.

''(a) IN GENERAL.—Any payments received by the Service, by an Indian tribe or tribal organization pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act, or by an urban Indian organization pursuant to title V of this Act for services provided to Indians eligible for benefits under title XVIII of the Social Security Act shall not be considered in determining appropriations for health care and services to Indians.

''(b) EQUAL TREATMENT.—Nothing in this Act authorizes the Secretary to provide services to an Indian beneficiary with coverage under title XVIII of the Social Security Act in preference to an Indian beneficiary without such coverage.

''(c) SPECIAL FUND.—

''(1) USE OF FUNDS.—Notwithstanding any other provision of this title or of title XVIII of the Social Security Act, payments to which any facility of the Service is entitled by reason of this section shall be placed in a special fund to be held by the Secretary and first used (to such extent or in such amounts as are provided in appropriation Acts) for the purpose of making any improvements in the programs of the Service which may be necessary to achieve or maintain compliance with the applicable conditions and requirements of this title and of title XVIII of the Social Security Act. Any funds to be reimbursed which are in excess of the amount necessary to achieve or maintain such conditions and requirements shall, subject to the consultation with tribes being served by the service unit, be used for reducing the health resource deficiencies of the Indian tribes.

''(2) NONAPPLICATION IN CASE OF ELECTION FOR DIRECT BILLING.—Paragraph (1) shall not apply upon the election of an Indian tribe or tribal organization under section 405 to receive direct payments for services provided to Indians eligible for benefits under title XVIII of the Social Security Act.

''SEC. 402. TREATMENT OF PAYMENTS UNDER MEDICAID PROGRAM.

''(a) SPECIAL FUND.—

''(1) USE OF FUNDS.—Notwithstanding any other provision of law, payments to which any facility of the Service (including a hospital, nursing facility, intermediate care facility for the mentally retarded, or any other type of facility which provides services for which payment is available under title XIX of the Social Security Act) is entitled under a State plan by reason of section 1911 of such Act shall be placed in a special fund to be held by the Secretary and first used (to such extent or in such amounts as are provided in appropriation Acts) for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve or maintain compliance with the applicable conditions and requirements of such title. Any payments which are in excess of the amount necessary to achieve or maintain such conditions and requirements shall, subject to the consultation with tribes being served by the service unit, be used for reducing the health resource deficiencies of the Indian tribes. In making payments from such fund, the Secretary shall ensure that each service unit of the Service receives 100 percent of the amounts to which the facilities of the Service, for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act.

''(2) NONAPPLICATION IN CASE OF ELECTION FOR DIRECT BILLING.—Paragraph (1) shall not apply upon the election of an Indian tribe or tribal organization under section 405 to receive direct payments for services provided to Indians eligible for medical assistance under title XIX of the Social Security Act.

''(b) PAYMENTS DISREGARDED FOR APPROPRIATIONS.—Any payments received under section 1911 of the Social Security Act for services provided to Indians eligible for benefits under title XIX of the Social Security Act shall not be considered in determining appropriations for the provision of health care and services to Indians.

''(c) DIRECT BILLING.—For provisions relating to the authority of certain Indian tribes and tribal organizations to elect to directly bill for, and receive payment for, health care services provided by a hospital or clinic of such tribes or tribal organizations and for which payment may be made under this title, see section 405.

''SEC. 403. REPORT.

''(a) INCLUSION IN ANNUAL REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be transmitted to the Congress under section 801, an accounting on the amount and use of funds made available to the Service pursuant to this title as a result of reimbursements under titles XVIII and XIX of the Social Security Act.

''(b) IDENTIFICATION OF SOURCE OF PAYMENTS.—If an Indian tribe or tribal organization receives funding from the Service under the Indian Self-Determination and Education Assistance Act or an urban Indian organization receives funding from the Service under Title V of this Act and receives reimbursements or payments under title XVIII, XIX, or XXI of the Social Security Act, such Indian tribe or tribal organization, or urban Indian organization, shall provide to the Service a list of each provider enrollment number (or other identifier) under which it receives such reimbursements or payments.

''SEC. 404. GRANTS TO AND FUNDING AGREEMENTS WITH THE SERVICE, INDIAN TRIBES OR TRIBAL ORGANIZATIONS, AND URBAN INDIAN ORGANIZATIONS.

''(a) IN GENERAL.—The Secretary shall make grants to or enter into funding agreements with Indian tribes and tribal organizations to assist such organizations in establishing and administering programs on or near Federal Indian reservations and trust areas and in or near Alaska Native villages to assist individual Indians to—

''(1) enroll under sections 1818, 1836, and 1837 of the Social Security Act;

''(2) pay premiums for health insurance coverage; and

''(3) apply for medical assistance provided pursuant to titles XIX and XXI of the Social Security Act.

''(b) CONDITIONS.—The Secretary shall place conditions as deemed necessary to effect the purpose of this section in any funding agreement or grant which the Secretary makes with any Indian tribe or tribal organization pursuant to this section. Such conditions shall include, but are not limited to, requirements that the organization successfully undertake to—

''(1) determine the population of Indians to be served that are or could be recipients of benefits or assistance under titles XVIII, XIX, and XXI of the Social Security Act;

''(2) assist individual Indians in becoming familiar with and utilizing such benefits and assistance;

''(3) provide transportation to such individual Indians to the appropriate offices for enrollment or applications for such benefits and assistance;

''(4) develop and implement—

''(A) a schedule of income levels to determine the extent of payments of premiums by such organizations for health insurance coverage of needy individuals; and

''(B) methods of improving the participation of Indians in receiving the benefits and assistance provided under titles XVIII, XIX, and XXI of the Social Security Act.

''(c) AGREEMENTS FOR RECEIPT AND PROCESSING OF APPLICATIONS.—The Secretary may enter into an agreement with an Indian tribe or tribal organization, or an urban Indian organization, which provides for the receipt and processing of applications for medical assistance under title XIX of the Social Security Act, child health assistance under title XXI of such Act and benefits under title XVIII of such Act by a Service facility or a health care program administered by such Indian tribe or tribal organization, or urban Indian organization, pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act or a grant or contract entered into with an urban Indian organization under title V of this Act. Notwithstanding any other provision of law, such agreements shall provide for reimbursement of the cost of outreach, education regarding eligibility and benefits, and translation when such services are provided. The reimbursement may be included in an encounter rate or be made on a fee-for-service basis as appropriate for the provider. When necessary to carry out the terms of this section, the Secretary, acting through the Health Care Financing Administration or the Service, may enter into agreements with a State (or political subdivision thereof) to facilitate cooperation between the State and the Service, an Indian tribe or tribal organization, and an urban Indian organization.

''(d) GRANTS.—

''(1) IN GENERAL.—The Secretary shall make grants or enter into contracts with urban Indian organizations to assist such organizations in establishing and administering programs to assist individual urban Indians to—

''(A) enroll under sections 1818, 1836, and 1837 of the Social Security Act;

''(B) pay premiums on behalf of such individuals for coverage under title XVIII of such Act; and

''(C) apply for medical assistance provided under title XIX of such Act and for child health assistance under title XXI of such Act.

''(2) REQUIREMENTS.—The Secretary shall include in the grants or contracts made or entered into under paragraph (1) requirements that are—

''(A) consistent with the conditions imposed by the Secretary under subsection (b);

''(B) appropriate to urban Indian organizations and urban Indians; and

''(C) necessary to carry out the purposes of this section.

''SEC. 405. DIRECT BILLING AND REIMBURSEMENT OF MEDICARE, MEDICAID, AND OTHER THIRD PARTY PAYORS.

''(a) ESTABLISHMENT OF DIRECT BILLING PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish a program under which Indian tribes, tribal organizations, and Alaska Native health organizations that contract or compact for the operation of a hospital or clinic of the Service under the Indian Self-Determination and Education Assistance Act may elect to directly bill for, and receive payment for, health care services provided by such hospital or clinic for which payment is made under the medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), or from any other third party payor.

''(2) APPLICATION OF 100 PERCENT FMAP.—The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) shall apply for purposes of reimbursement under title XIX of the Social Security Act for health care services directly billed under the program established under this section.

''(b) DIRECT REIMBURSEMENT.—

''(1) USE OF FUNDS.—Each hospital or clinic participating in the program described in subsection (a) of this section shall be reimbursed directly under titles XVIII and XIX of the Social Security Act for services furnished, without regard to the provisions of section 1880(c) of the Social Security Act (42 U.S.C. 1395qq(c)) and sections 402(a) and 807(b)(2)(A), but all funds so reimbursed shall first be used by the hospital or clinic for the purpose of making any improvements in the hospital or clinic that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to facilities of such type under title XVIII or XIX of the Social Security Act. Any funds so reimbursed which are in excess of the amount necessary to achieve or maintain such conditions shall be used—

''(A) solely for improving the health resources deficiency level of the Indian tribe; and

''(B) in accordance with the regulations of the Service applicable to funds provided by the Service under any contract entered into under the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

''(2) AUDITS.—The amounts paid to the hospitals and clinics participating in the program established under this section shall be subject to all auditing requirements applicable to programs administered directly by the Service and to facilities participating in the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act.

''(3) SECRETARIAL OVERSIGHT.—The Secretary shall monitor the performance of hospitals and clinics participating in the program established under this section, and shall require such hospitals and clinics to submit reports on the program to the Secretary on an annual basis.

''(4) NO PAYMENTS FROM SPECIAL FUNDS.—Notwithstanding section 1880(c) of the Social Security Act (42 U.S.C. 1395qq(c)) or section 402(a), no payment may be made out of the special funds described in such sections for the benefit of any hospital or clinic during the period that the hospital or clinic participates in the program established under this section.

''(c) REQUIREMENTS FOR PARTICIPATION.—

''(1) APPLICATION.—Except as provided in paragraph (2)(B), in order to be eligible for participation in the program established under this section, an Indian tribe, tribal organization, or Alaska Native health organization shall submit an application to the Secretary that establishes to the satisfaction of the Secretary that—

''(A) the Indian tribe, tribal organization, or Alaska Native health organization contracts or compacts for the operation of a facility of the Service;

''(B) the facility is eligible to participate in the medicare or medicaid programs under section 1880 or 1911 of the Social Security Act (42 U.S.C. 1395qq; 1396j);

''(C) the facility meets the requirements that apply to programs operated directly by the Service; and

''(D) the facility—

''(i) is accredited by an accrediting body as eligible for reimbursement under the medicare or medicaid programs; or

''(ii) has submitted a plan, which has been approved by the Secretary, for achieving such accreditation.

''(2) APPROVAL.—

''(A) IN GENERAL.—The Secretary shall review and approve a qualified application not later than 90 days after the date the application is submitted to the Secretary unless the Secretary determines that any of the criteria set forth in paragraph (1) are not met.

''(B) GRANDFATHER OF DEMONSTRATION PROGRAM PARTICIPANTS.—Any participant in the demonstration program authorized under this section as in effect on the day before the date of enactment of the Alaska Native and American Indian Direct Reimbursement Act of 2000 shall be deemed approved for participation in the program established under this section and shall not be required to submit an application in order to participate in the program.

''(C) DURATION.—An approval by the Secretary of a qualified application under subparagraph (A), or a deemed approval of a demonstration program under subparagraph (B), shall continue in effect as long as the approved applicant or the deemed approved demonstration program meets the requirements of this section.

''(d) EXAMINATION AND IMPLEMENTATION OF CHANGES.—

''(1) IN GENERAL.—The Secretary, acting through the Service, and with the assistance of the Administrator of the Health Care Financing Administration, shall examine on an ongoing basis and implement—

''(A) any administrative changes that may be necessary to facilitate direct billing and reimbursement under the program established under this section, including any agreements with States that may be necessary to provide for direct billing under title XIX of the Social Security Act; and

''(B) any changes that may be necessary to enable participants in the program established under this section to provide to the Service medical records information on patients served under the program that is consistent with the medical records information system of the Service.

''(2) ACCOUNTING INFORMATION.—The accounting information that a participant in the program established under this section shall be required to report shall be the same as the information required to be reported by participants in the demonstration program authorized under this section as in effect on the day before the date of enactment of the Alaska Native and American Indian Direct Reimbursement Act of 2000. The Secretary may from time to time, after consultation with the program participants, change the accounting information submission requirements.

''(e) WITHDRAWAL FROM PROGRAM.—A participant in the program established under this section may withdraw from participation in the same manner and under the same conditions that a tribe or tribal organization may retrocede a contracted program to the Secretary under authority of the Indian Self-Determination Act (25 U.S.C. 450 et seq.). All cost accounting and billing authority under the program established under this section shall be returned to the Secretary upon the Secretary's acceptance of the withdrawal of participation in this program.

''SEC. 406. REIMBURSEMENT FROM CERTAIN THIRD PARTIES OF COSTS OF HEALTH SERVICES.

''(a) RIGHT OF RECOVERY.—Except as provided in subsection (g), the United States, an Indian tribe or tribal organization shall have the right to recover the reasonable charges billed or expenses incurred by the Secretary or an Indian tribe or tribal organization in providing health services, through the Service or an Indian tribe or tribal organization to any individual to the same extent that such individual, or any nongovernmental provider of such services, would be eligible to receive reimbursement or indemnification for such charges or expenses if—

''(1) such services had been provided by a nongovernmental provider; and

''(2) such individual had been required to pay such charges or expenses and did pay such expenses.

''(b) URBAN INDIAN ORGANIZATIONS.—Except as provided in subsection (g), an urban Indian organization shall have the right to recover the reasonable charges billed or expenses incurred by the organization in providing health services to any individual to the same extent that such individual, or any other nongovernmental provider of such services, would be eligible to receive reimbursement or indemnification for such charges or expenses if such individual had been required to pay such charges or expenses and did pay such charges or expenses.

''(c) LIMITATIONS ON RECOVERIES FROM STATES.—Subsections (a) and (b) shall provide a right of recovery against any State, only if the injury, illness, or disability for which health services were provided is covered under—

''(1) workers' compensation laws; or

''(2) a no-fault automobile accident insurance plan or program.

''(d) NONAPPLICATION OF OTHER LAWS.—No law of any State, or of any political subdivision of a State and no provision of any contract entered into or renewed after the date of enactment of the Indian Health Care Amendments of 1988, shall prevent or hinder the right of recovery of the United States or an Indian tribe or tribal organization under subsection (a), or an urban Indian organization under subsection (b).

''(e) NO EFFECT ON PRIVATE RIGHTS OF ACTION.—No action taken by the United States or an Indian tribe or tribal organization to enforce the right of recovery provided under subsection (a), or by an urban Indian organization to enforce the right of recovery provided under subsection (b), shall affect the right of any person to any damages (other than damages for the cost of health services provided by the Secretary through the Service).

''(f) METHODS OF ENFORCEMENT.—

''(1) IN GENERAL.—The United States or an Indian tribe or tribal organization may enforce the right of recovery provided under subsection (a), and an urban Indian organization may enforce the right of recovery provided under subsection (b), by—

''(A) intervening or joining in any civil action or proceeding brought—

''(i) by the individual for whom health services were provided by the Secretary, an Indian tribe or tribal organization, or urban Indian organization; or

''(ii) by any representative or heirs of such individual; or

''(B) instituting a civil action.

''(2) NOTICE.—All reasonable efforts shall be made to provide notice of an action instituted in accordance with paragraph (1)(B) to the individual to whom health services were provided, either before or during the pendency of such action.

''(g) LIMITATION.—Notwithstanding this section, absent specific written authorization by the governing body of an Indian tribe for the period of such authorization (which may not be for a period of more than 1 year and which may be revoked at any time upon written notice by the governing body to the Service), neither the United States through the Service, nor an Indian tribe or tribal organization under a funding agreement pursuant to the Indian Self-Determination and Education Assistance Act, nor an urban Indian organization funded under title V, shall have a right of recovery under this section if the injury, illness, or disability for which health services were provided is covered under a self-insurance plan funded by an Indian tribe or tribal organization, or urban Indian organization. Where such tribal authorization is provided, the Service may receive and expend such funds for the provision of additional health services.

''(h) COSTS AND ATTORNEYS' FEES.—In any action brought to enforce the provisions of this section, a prevailing plaintiff shall be awarded reasonable attorneys' fees and costs of litigation.

''(i) RIGHT OF ACTION AGAINST INSURERS AND EMPLOYEE BENEFIT PLANS.—

''(1) IN GENERAL.—Where an insurance company or employee benefit plan fails or refuses to pay the amount due under subsection (a) for services provided to an individual who is a beneficiary, participant, or insured of such company or plan, the United States or an Indian tribe or tribal organization shall have a right to assert and pursue all the claims and remedies against such company or plan, and against the fiduciaries of such company or plan, that the individual could assert or pursue under applicable Federal, State or tribal law.

''(2) URBAN INDIAN ORGANIZATIONS.—Where an insurance company or employee benefit plan fails or refuses to pay the amounts due under subsection (b) for health services provided to an individual who is a beneficiary, participant, or insured of such company or plan, the urban Indian organization shall have a right to assert and pursue all the claims and remedies against such company or plan, and against the fiduciaries of such company or plan, that the individual could assert or pursue under applicable Federal or State law.

''(j) NONAPPLICATION OF CLAIMS FILING REQUIREMENTS.—Notwithstanding any other provision in law, the Service, an Indian tribe or tribal organization, or an urban Indian organization shall have a right of recovery for any otherwise reimbursable claim filed on a current HCFA-1500 or UB–92 form, or the current NSF electronic format, or their successors. No health plan shall deny payment because a claim has not been submitted in a unique format that differs from such forms.

''SEC. 407. CREDITING OF REIMBURSEMENTS.

''(a) RETENTION OF FUNDS.—Except as provided in section 202(d), this title, and section 807, all reimbursements received or recovered under the authority of this Act, Public Law 87–693, or any other provision of law, by reason of the provision of health services by the Service or by an Indian tribe or tribal organization under a funding agreement pursuant to the Indian Self-Determination and Education Assistance Act, or by an urban Indian organization funded under title V, shall be retained by the Service or that tribe or tribal organization and shall be available for the facilities, and to carry out the programs, of the Service or that tribe or tribal organization to provide health care services to Indians.

''(b) NO OFFSET OF FUNDS.—The Service may not offset or limit the amount of funds obligated to any service unit or entity receiving funding from the Service because of the receipt of reimbursements under subsection (a).

''SEC. 408. PURCHASING HEALTH CARE COVERAGE.

''An Indian tribe or tribal organization, and an urban Indian organization may utilize funding from the Secretary under this Act to purchase managed care coverage for Service beneficiaries (including insurance to limit the financial risks of managed care entities) from—

''(1) a tribally owned and operated managed care plan;

''(2) a State or locally-authorized or licensed managed care plan; or

''(3) a health insurance provider.

''SEC. 409. INDIAN HEALTH SERVICE, DEPARTMENT OF VETERAN'S AFFAIRS, AND OTHER FEDERAL AGENCY HEALTH FACILITIES AND SERVICES SHARING.

''(a) EXAMINATION OF FEASIBILITY OF ARRANGEMENTS.—

''(1) IN GENERAL.—The Secretary shall examine the feasibility of entering into arrangements or expanding existing arrangements for the sharing of medical facilities and services between the Service and the Veterans' Administration, and other appropriate Federal agencies, including those within the Department, and shall, in accordance with subsection (b), prepare a report on the feasibility of such arrangements.

''(2) SUBMISSION OF REPORT.—Not later than September 30, 2001, the Secretary shall submit the report required under paragraph (1) to Congress.

''(3) CONSULTATION REQUIRED.—The Secretary may not finalize any arrangement described in paragraph (1) without first consulting with the affected Indian tribes.

''(b) LIMITATIONS.—The Secretary shall not take any action under this section or under subchapter IV of chapter 81 of title 38, United States Code, which would impair—

''(1) the priority access of any Indian to health care services provided through the Service;

''(2) the quality of health care services provided to any Indian through the Service;

''(3) the priority access of any veteran to health care services provided by the Veterans' Administration;

''(4) the quality of health care services provided to any veteran by the Veteran's Administration;

''(5) the eligibility of any Indian to receive health services through the Service; or

''(6) the eligibility of any Indian who is a veteran to receive health services through the Veterans' Administration provided, however, the Service or the Indian tribe or tribal organization shall be reimbursed by the Veterans' Administration where services are provided through the Service or Indian tribes or tribal organizations to beneficiaries eligible for services from the Veterans' Administration, notwithstanding any other provision of law.

''(c) AGREEMENTS FOR PARITY IN SERVICES.—The Service may enter into agreements with other Federal agencies to assist in achieving parity in services for Indians. Nothing in this section may be construed as creating any right of a veteran to obtain health services from the Service.

''SEC. 410. PAYOR OF LAST RESORT.

''The Service, and programs operated by Indian tribes or tribal organizations, or urban Indian organizations shall be the payor of last resort for services provided to individuals eligible for services from the Service and such programs, notwithstanding any Federal, State or local law to the contrary, unless such law explicitly provides otherwise.

''SEC. 411. RIGHT TO RECOVER FROM FEDERAL HEALTH CARE PROGRAMS.

''Notwithstanding any other provision of law, the Service, Indian tribes or tribal organizations, and urban Indian organizations (notwithstanding limitations on who is eligible to receive services from such entities) shall be entitled to receive payment or reimbursement for services provided by such entities from any Federally funded health care program, unless there is an explicit prohibition on such payments in the applicable authorizing statute.

''SEC. 412. TUBA CITY DEMONSTRATION PROJECT.

''(a) IN GENERAL.—Notwithstanding any other provision of law, including the Anti-Deficiency Act, provided the Indian tribes to be served approve, the Service in the Tuba City Service Unit may—

''(1) enter into a demonstration project with the State of Arizona under which the Service would provide certain specified medicaid services to individuals dually eligible for services from the Service and for medical assistance under title XIX of the Social Security Act in return for payment on a capitated basis from the State of Arizona; and

''(2) purchase insurance to limit the financial risks under the project.

''(b) EXTENSION OF PROJECT.—The demonstration project authorized under subsection (a) may be extended to other service units in Arizona, subject to the approval of the Indian tribes to be served in such service units, the Service, and the State of Arizona.

''SEC. 413. ACCESS TO FEDERAL INSURANCE.

''Notwithstanding the provisions of title 5, United States Code, Executive Order, or administrative regulation, an Indian tribe or tribal organization carrying out programs under the Indian Self-Determination and Education Assistance Act or an urban Indian organization carrying out programs under title V of this Act shall be entitled to purchase coverage, rights and benefits for the employees of such Indian tribe or tribal organization, or urban Indian organization, under chapter 89 of title 5, United States Code, and chapter 87 of such title if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with such Indian tribe or tribal organization, or urban Indian organization, are currently deposited in the applicable Employee's Fund under such title.

''SEC. 414. CONSULTATION AND RULEMAKING.

''(a) CONSULTATION.—Prior to the adoption of any policy or regulation by the Health Care Financing Administration, the Secretary shall require the Administrator of that Administration to—

''(1) identify the impact such policy or regulation may have on the Service, Indian tribes or tribal organizations, and urban Indian organizations;

''(2) provide to the Service, Indian tribes or tribal organizations, and urban Indian organizations the information described in paragraph (1);

''(3) engage in consultation, consistent with the requirements of Executive Order 13084 of May 14, 1998, with the Service, Indian tribes or tribal organizations, and urban Indian organizations prior to enacting any such policy or regulation.

''(b) RULEMAKING.—The Administrator of the Health Care Financing Administration shall participate in the negotiated rulemaking provided for under title VIII with regard to any regulations necessary to implement the provisions of this title that relate to the Social Security Act.

''SEC. 415. LIMITATIONS ON CHARGES.

''No provider of health services that is eligible to receive payments or reimbursements under titles XVIII, XIX, or XXI of the Social Security Act or from any Federally funded (whether in whole or part) health care program may seek to recover payment for services—

''(1) that are covered under and furnished to an individual eligible for the contract health services program operated by the Service, by an Indian tribe or tribal organization, or furnished to an urban Indian eligible for health services purchased by an urban Indian organization, in an amount in excess of the lowest amount paid by any other payor for comparable services; or

''(2) for examinations or other diagnostic procedures that are not medically necessary if such procedures have already been performed by the referring Indian health program and reported to the provider.

''SEC. 416. LIMITATION ON SECRETARY'S WAIVER AUTHORITY.

''Notwithstanding any other provision of law, the Secretary may not waive the application of section 1902(a)(13)(D) of the Social Security Act to any State plan under title XIX of the Social Security Act.

''SEC. 417. WAIVER OF MEDICARE AND MEDICAID SANCTIONS.

''Notwithstanding any other provision of law, the Service or an Indian tribe or tribal organization or an urban Indian organization operating a health program under the Indian Self-Determination and Education Assistance Act shall be entitled to seek a waiver of sanctions imposed under title XVIII, XIX, or XXI of the Social Security Act as if such entity were directly responsible for administering the State health care program.

''SEC. 418. MEANING OF 'REMUNERATION' FOR PURPOSES OF SAFE HARBOR PROVISIONS; ANTITRUST IMMUNITY.

''(a) MEANING OF REMUNERATION.—Notwithstanding any other provision of law, the term 'remuneration' as used in sections 1128A and 1128B of the Social Security Act shall not include any exchange of anything of value between or among—

''(1) any Indian tribe or tribal organization or an urban Indian organization that administers health programs under the authority of the Indian Self-Determination and Education Assistance Act;

''(2) any such Indian tribe or tribal organization or urban Indian organization and the Service;

''(3) any such Indian tribe or tribal organization or urban Indian organization and any patient served or eligible for service under such programs, including patients served or eligible for service pursuant to section 813 of this Act (as in effect on the day before the date of enactment of the Indian Health Care Improvement Act Reauthorization of 2001); or

''(4) any such Indian tribe or tribal organization or urban Indian organization and any third party required by contract, section 206 or 207 of this Act (as so in effect), or other applicable law, to pay or reimburse the reasonable health care costs incurred by the United States or any such Indian tribe or tribal organization or urban Indian organization;

provided the exchange arises from or relates to such health programs.

''(b) ANTITRUST IMMUNITY.—An Indian tribe or tribal organization or an urban Indian organization that administers health programs under the authority of the Indian Self-Determination and Education Assistance Act or title V shall be deemed to be an agency of the United States and immune from liability under the Acts commonly known as the Sherman Act, the Clayton Act, the Robinson-Patman Anti-Discrimination Act, the Federal Trade Commission Act, and any other Federal, State, or local antitrust laws, with regard to any transaction, agreement, or conduct that relates to such programs.

''SEC. 419. CO-INSURANCE, CO-PAYMENTS, DEDUCTIBLES AND PREMIUMS.

''(a) EXEMPTION FROM COST-SHARING REQUIREMENTS.—Notwithstanding any other provision of Federal or State law, no Indian who is eligible for services under title XVIII, XIX, or XXI of the Social Security Act, or under any other Federally funded health care programs, may be charged a deductible, co-payment, or co-insurance for any service provided by or through the Service, an Indian tribe or tribal organization or urban Indian organization, nor may the payment or reimbursement due to the Service or an Indian tribe or tribal organization or urban Indian organization be reduced by the amount of the deductible, co-payment, or co-insurance that would be due from the Indian but for the operation of this section. For the purposes of this section, the term 'through' shall include services provided directly, by referral, or under contracts or other arrangements between the Service, an Indian tribe or tribal organization or an urban Indian organization and another health provider.

''(b) EXEMPTION FROM PREMIUMS.—

''(1) MEDICAID AND STATE CHILDREN'S HEALTH INSURANCE PROGRAM.—Notwithstanding any other provision of Federal or State law, no Indian who is otherwise eligible for medical assistance under title XIX of the Social Security Act or child health assistance under title XXI of such Act may be charged a premium as a condition of receiving such assistance under title XIX of XXI of such Act.

''(2) MEDICARE ENROLLMENT PREMIUM PENALTIES.—Notwithstanding section 1839(b) of the Social Security Act or any other provision of Federal or State law, no Indian who is eligible for benefits under part B of title XVIII of the Social Security Act, but for the payment of premiums, shall be charged a penalty for enrolling in such part at a time later than the Indian might otherwise have been first eligible to do so. The preceding sentence applies whether an Indian pays for premiums under such part directly or such premiums are paid by another person or entity, including a State, the Service, an Indian Tribe or tribal organization, or an urban Indian organization.

''SEC. 420. INCLUSION OF INCOME AND RESOURCES FOR PURPOSES OF MEDICALLY NEEDY MEDICAID ELIGIBILITY.

''For the purpose of determining the eligibility under section 1902(a)(10)(A)(ii)(IV) of the Social Security Act of an Indian for medical assistance under a State plan under title XIX of such Act, the cost of providing services to an Indian in a health program of the Service, an Indian Tribe or tribal organization, or an urban Indian organization shall be deemed to have been an expenditure for health care by the Indian.

''SEC. 421. ESTATE RECOVERY PROVISIONS.

''Notwithstanding any other provision of Federal or State law, the following property may not be included when determining eligibility for services or implementing estate recovery rights under title XVIII, XIX, or XXI of the Social Security Act, or any other health care programs funded in whole or part with Federal funds:

''(1) Income derived from rents, leases, or royalties of property held in trust for individuals by the Federal Government.

''(2) Income derived from rents, leases, royalties, or natural resources (including timber and fishing activities) resulting from the exercise of Federally protected rights, whether collected by an individual or a tribal group and distributed to individuals.

''(3) Property, including interests in real property currently or formerly held in trust by the Federal Government which is protected under applicable Federal, State or tribal law or custom from recourse, including public domain allotments.

''(4) Property that has unique religious or cultural significance or that supports subsistence or traditional life style according to applicable tribal law or custom.

''SEC. 422. MEDICAL CHILD SUPPORT.

''Notwithstanding any other provision of law, a parent shall not be responsible for reimbursing the Federal Government or a State for the cost of medical services provided to a child by or through the Service, an Indian tribe or tribal organization or an urban Indian organization. For the purposes of this subsection, the term 'through' includes services provided directly, by referral, or under contracts or other arrangements between the Service, an Indian Tribe or tribal organization or an urban Indian organization and another health provider.

''SEC. 423. PROVISIONS RELATING TO MANAGED CARE.

''(a) RECOVERY FROM MANAGED CARE PLANS.—Notwithstanding any other provision in law, the Service, an Indian Tribe or tribal organization or an urban Indian organization shall have a right of recovery under section 408 from all private and public health plans or programs, including the medicare, medicaid, and State children's health insurance programs under titles XVIII, XIX, and XXI of the Social Security Act, for the reasonable costs of delivering health services to Indians entitled to receive services from the Service, an Indian Tribe or tribal organization or an urban Indian organization.

''(b) LIMITATION.—No provision of law or regulation, or of any contract, may be relied upon or interpreted to deny or reduce payments otherwise due under subsection (a), except to the extent the Service, an Indian tribe or tribal organization, or an urban Indian organization has entered into an agreement with a managed care entity regarding services to be provided to Indians or rates to be paid for such services, provided that such an agreement may not be made a prerequisite for such payments to be made.

''(c) PARITY.—Payments due under subsection (a) from a managed care entity may not be paid at a rate that is less than the rate paid to a 'preferred provider' by the entity or, in the event there is no such rate, the usual and customary fee for equivalent services.

''(d) NO CLAIM REQUIREMENT.—A managed care entity may not deny payment under subsection (a) because an enrollee with the entity has not submitted a claim.

''(e) DIRECT BILLING.—Notwithstanding the preceding subsections of this section, the Service, an Indian tribe or tribal organization, or an urban Indian organization that provides a health service to an Indian entitled to medical assistance under the State plan under title XIX of the Social Security Act or enrolled in a child health plan under title XXI of such Act shall have the right to be paid directly by the State agency administering such plans notwithstanding any agreements the State may have entered into with managed care organizations or providers.

''(f) REQUIREMENT FOR MEDICAID MANAGED CARE ENTITIES.—A managed care entity (as defined in section 1932(a)(1)(B) of the Social Security Act shall, as a condition of participation in the State plan under title XIX of such Act, offer a contract to health programs administered by the Service, an Indian tribe or tribal organization or an urban Indian organization that provides health services in the geographic area served by the managed care entity and such contract (or other provider participation agreement) shall contain terms and conditions of participation and payment no more restrictive or onerous than those provided for in this section.

''(g) PROHIBITION.—Notwithstanding any other provision of law or any waiver granted by the Secretary no Indian may be assigned automatically or by default under any managed care entity participating in a State plan under title XIX or XXI of the Social Security Act unless the Indian had the option of enrolling in a managed care plan or health program administered by the Service, an Indian tribe or tribal organization, or an urban Indian organization.

''(h) INDIAN MANAGED CARE PLANS.—Notwithstanding any other provision of law, any State entering into agreements with one or more managed care organizations to provide services under title XIX or XXI of the Social Security Act shall enter into such an agreement with the Service, an Indian tribe or tribal organization or an urban Indian organization under which such an entity may provide services to Indians who may be eligible or required to enroll with a managed care organization through enrollment in an Indian managed care organization that provides services similar to those offered by other managed care organizations in the State. The Secretary and the State are hereby authorized to waive requirements regarding discrimination, capitalization, and other matters that might otherwise prevent an Indian managed care organization or health program from meeting Federal or State standards applicable to such organizations, provided such Indian managed care organization or health program offers Indian enrollees services of an equivalent quality to that required of other managed care organizations.

''(i) ADVERTISING.—A managed care organization entering into a contract to provide services to Indians on or near an Indian reservation shall provide a certificate of coverage or similar type of document that is written in the Indian language of the majority of the Indian population residing on such reservation.

''SEC. 424. NAVAJO NATION MEDICAID AGENCY.

''(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may treat the Navajo Nation as a State under title XIX of the Social Security Act for purposes of providing medical assistance to Indians living within the boundaries of the Navajo Nation.

''(b) ASSIGNMENT AND PAYMENT.—Notwithstanding any other provision of law, the Secretary may assign and pay all expenditures related to the provision of services to Indians living within the boundaries of the Navajo Nation under title XIX of the Social Security Act (including administrative expenditures) that are currently paid to or would otherwise be paid to the States of Arizona, New Mexico, and Utah, to an entity established by the Navajo Nation and approved by the Secretary, which shall be denominated the Navajo Nation Medicaid Agency.

''(c) AUTHORITY.—The Navajo Nation Medicaid Agency shall serve Indians living within the boundaries of the Navajo Nation and shall have the same authority and perform the same functions as other State agency responsible for the administration of the State plan under title XIX of the Social Security Act.

''(d) TECHNICAL ASSISTANCE.—The Secretary may directly assist the Navajo Nation in the development and implementation of a Navajo Nation Medicaid Agency for the administration, eligibility, payment, and delivery of medical assistance under title XIX of the Social Security Act (which shall, for purposes of reimbursement to such Nation, include Western and traditional Navajo healing services) within the Navajo Nation. Such assistance may include providing funds for demonstration projects conducted with such Nation.

''(e) FMAP.—Notwithstanding section 1905(b) of the Social Security Act, the Federal medical assistance percentage shall be 100 per cent with respect to amounts the Navajo Nation Medicaid agency expends for medical assistance and related administrative costs.

''(f) WAIVER AUTHORITY.—The Secretary shall have the authority to waive applicable provisions of Title XIX of the Social Security Act to establish, develop and implement the Navajo Nation Medicaid Agency.

''(g) SCHIP.—At the option of the Navajo Nation, the Secretary may treat the Navajo Nation as a State for purposes of title XXI of the Social Security Act under terms equivalent to those described in the preceding subsections of this section.

''SEC. 425. INDIAN ADVISORY COMMITTEES.

''(a) NATIONAL INDIAN TECHNICAL ADVISORY GROUP.—The Administrator of the Health Care Financing Administration shall establish and fund the expenses of a National Indian Technical Advisory Group which shall have no fewer than 14 members, including at least 1 member designated by the Indian tribes and tribal organizations in each service area, 1 urban Indian organization representative, and 1 member representing the Service. The scope of the activities of such group shall be established under section 802 provided that such scope shall include providing comment on and advice regarding the programs funded under titles XVIII, XIX, and XXI of the Social Security Act or regarding any other health care program funded (in whole or part) by the Health Care Financing Administration.

''(b) INDIAN MEDICAID ADVISORY COMMITTEES.—The Administrator of the Health Care Financing Administration shall establish and provide funding for a Indian Medicaid Advisory Committee made up of designees of the Service, Indian tribes and tribal organizations and urban Indian organizations in each State in which the Service directly operates a health program or in which there is one or more Indian tribe or tribal organization or urban Indian organization.

''SEC. 426. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2002 through 2013 to carry out this title.''.

''TITLE V—HEALTH SERVICES FOR URBAN INDIANS

''SEC. 501. PURPOSE.

''The purpose of this title is to establish programs in urban centers to make health services more accessible and available to urban Indians.

''SEC. 502. CONTRACTS WITH, AND GRANTS TO, URBAN INDIAN ORGANIZATIONS.

''Under the authority of the Act of November 2, 1921 (25 U.S.C. 13)(commonly known as the Snyder Act), the Secretary, through the Service, shall enter into contracts with, or make grants to, urban Indian organizations to assist such organizations in the establishment and administration, within urban centers, of programs which meet the requirements set forth in this title. The Secretary, through the Service, subject to section 506, shall include such conditions as the Secretary considers necessary to effect the purpose of this title in any contract which the Secretary enters into with, or in any grant the Secretary makes to, any urban Indian organization pursuant to this title.

''SEC. 503. CONTRACTS AND GRANTS FOR THE PROVISION OF HEALTH CARE AND REFERRAL SERVICES.

''(a) AUTHORITY.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary, acting through the Service, shall enter into contracts with, and make grants to, urban Indian organizations for the provision of health care and referral services for urban Indians. Any such contract or grant shall include requirements that the urban Indian organization successfully undertake to—

''(1) estimate the population of urban Indians residing in the urban center or centers that the organization proposes to serve who are or could be recipients of health care or referral services;

''(2) estimate the current health status of urban Indians residing in such urban center or centers;

''(3) estimate the current health care needs of urban Indians residing in such urban center or centers;

''(4) provide basic health education, including health promotion and disease prevention education, to urban Indians;

''(5) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and

''(6) where necessary, provide, or enter into contracts for the provision of, health care services for urban Indians.

''(b) CRITERIA.—The Secretary, acting through the Service, shall by regulation adopted pursuant to section 520 prescribe the criteria for selecting urban Indian organizations to enter into contracts or receive grants under this section. Such criteria shall, among other factors, include—

''(1) the extent of unmet health care needs of urban Indians in the urban center or centers involved;

''(2) the size of the urban Indian population in the urban center or centers involved;

''(3) the extent, if any, to which the activities set forth in subsection (a) would duplicate any project funded under this title;

''(4) the capability of an urban Indian organization to perform the activities set forth in subsection (a) and to enter into a contract with the Secretary or to meet the requirements for receiving a grant under this section;

''(5) the satisfactory performance and successful completion by an urban Indian organization of other contracts with the Secretary under this title;

''(6) the appropriateness and likely effectiveness of conducting the activities set forth in subsection (a) in an urban center or centers; and

''(7) the extent of existing or likely future participation in the activities set forth in subsection (a) by appropriate health and health-related Federal, State, local, and other agencies.

''(c) HEALTH PROMOTION AND DISEASE PREVENTION.—The Secretary, acting through the Service, shall facilitate access to, or provide, health promotion and disease prevention services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a).

''(d) IMMUNIZATION SERVICES.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall facilitate access to, or provide, immunization services for urban Indians through grants made to urban Indian organizations administering contracts entered into, or receiving grants, under this section.

''(3) DEFINITION.—In this section, the term 'immunization services' means services to provide without charge immunizations against vaccine-preventable diseases.

''(e) MENTAL HEALTH SERVICES.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall facilitate access to, or provide, mental health services for urban Indians through grants made to urban Indian organizations administering contracts entered into, or receiving grants, under this section.

''(2) ASSESSMENT.—A grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment of the mental health needs of the urban Indian population concerned, the mental health services and other related resources available to that population, the barriers to obtaining those services and resources, and the needs that are unmet by such services and resources.

''(3) USE OF FUNDS.—Grants may be made under this subsection—

''(A) to prepare assessments required under paragraph (2);

''(B) to provide outreach, educational, and referral services to urban Indians regarding the availability of direct behavioral health services, to educate urban Indians about behavioral health issues and services, and effect coordination with existing behavioral health providers in order to improve services to urban Indians;

''(C) to provide outpatient behavioral health services to urban Indians, including the identification and assessment of illness, therapeutic treatments, case management, support groups, family treatment, and other treatment; and

''(D) to develop innovative behavioral health service delivery models which incorporate Indian cultural support systems and resources.

''(f) CHILD ABUSE.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall facilitate access to, or provide, services for urban Indians through grants to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a) to prevent and treat child abuse (including sexual abuse) among urban Indians.

''(2) ASSESSMENT.—A grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment that documents the prevalence of child abuse in the urban Indian population concerned and specifies the services and programs (which may not duplicate existing services and programs) for which the grant is requested.

''(3) USE OF FUNDS.—Grants may be made under this subsection—

''(A) to prepare assessments required under paragraph (2);

''(B) for the development of prevention, training, and education programs for urban Indian populations, including child education, parent education, provider training on identification and intervention, education on reporting requirements, prevention campaigns, and establishing service networks of all those involved in Indian child protection; and

''(C) to provide direct outpatient treatment services (including individual treatment, family treatment, group therapy, and support groups) to urban Indians who are child victims of abuse (including sexual abuse) or adult survivors of child sexual abuse, to the families of such child victims, and to urban Indian perpetrators of child abuse (including sexual abuse).

''(4) CONSIDERATIONS.—In making grants to carry out this subsection, the Secretary shall take into consideration—

''(A) the support for the urban Indian organization demonstrated by the child protection authorities in the area, including committees or other services funded under the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.), if any;

''(B) the capability and expertise demonstrated by the urban Indian organization to address the complex problem of child sexual abuse in the community; and

''(C) the assessment required under paragraph (2).

''(g) MULTIPLE URBAN CENTERS.—The Secretary, acting through the Service, may enter into a contract with, or make grants to, an urban Indian organization that provides or arranges for the provision of health care services (through satellite facilities, provider networks, or otherwise) to urban Indians in more than one urban center.

''SEC. 504. CONTRACTS AND GRANTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS.

''(a) AUTHORITY.—

''(1) IN GENERAL.—Under authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary, acting through the Service, may enter into contracts with, or make grants to, urban Indian organizations situated in urban centers for which contracts have not been entered into, or grants have not been made, under section 503.

''(2) PURPOSE.—The purpose of a contract or grant made under this section shall be the determination of the matters described in subsection (b)(1) in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract or make a grant under section 503 with respect to the urban Indian organization which the Secretary has entered into a contract with, or made a grant to, under this section.

''(b) REQUIREMENTS.—Any contract entered into, or grant made, by the Secretary under this section shall include requirements that—

''(1) the urban Indian organization successfully undertake to—

''(A) document the health care status and unmet health care needs of urban Indians in the urban center involved; and

''(B) with respect to urban Indians in the urban center involved, determine the matters described in paragraphs (2), (3), (4), and (7) of section 503(b); and

''(2) the urban Indian organization complete performance of the contract, or carry out the requirements of the grant, within 1 year after the date on which the Secretary and such organization enter into such contract, or within 1 year after such organization receives such grant, whichever is applicable.

''(c) LIMITATION ON RENEWAL.—The Secretary may not renew any contract entered into, or grant made, under this section.

''SEC. 505. EVALUATIONS; RENEWALS.

''(a) PROCEDURES.—The Secretary, acting through the Service, shall develop procedures to evaluate compliance with grant requirements under this title and compliance with, and performance of contracts entered into by urban Indian organizations under this title. Such procedures shall include provisions for carrying out the requirements of this section.

''(b) COMPLIANCE WITH TERMS.—The Secretary, acting through the Service, shall evaluate the compliance of each urban Indian organization which has entered into a contract or received a grant under section 503 with the terms of such contract of grant. For purposes of an evaluation under this subsection, the Secretary, in determining the capacity of an urban Indian organization to deliver quality patient care shall, at the option of the organization—

''(1) conduct, through the Service, an annual onsite evaluation of the organization; or

''(2) accept, in lieu of an onsite evaluation, evidence of the organization's provisional or full accreditation by a private independent entity recognized by the Secretary for purposes of conducting quality reviews of providers participating in the medicare program under Title XVIII of the Social Security Act.

''(c) NONCOMPLIANCE.—

''(1) IN GENERAL.—If, as a result of the evaluations conducted under this section, the Secretary determines that an urban Indian organization has not complied with the requirements of a grant or complied with or satisfactorily performed a contract under section 503, the Secretary shall, prior to renewing such contract or grant, attempt to resolve with such organization the areas of noncompliance or unsatisfactory performance and modify such contract or grant to prevent future occurrences of such noncompliance or unsatisfactory performance.

''(2) NONRENEWAL.—If the Secretary determines, under an evaluation under this section, that noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract or grant with such organization and is authorized to enter into a contract or make a grant under section 503 with another urban Indian organization which is situated in the same urban center as the urban Indian organization whose contract or grant is not renewed under this section.

''(d) DETERMINATION OF RENEWAL.—In determining whether to renew a contract or grant with an urban Indian organization under section 503 which has completed performance of a contract or grant under section 504, the Secretary shall review the

records of the urban Indian organization, the reports submitted under section 507, and, in the case of a renewal of a contract or grant under section 503, shall consider the results of the onsite evaluations or accreditation under subsection (b).

"SEC. 506. OTHER CONTRACT AND GRANT REQUIREMENTS.

''(a) APPLICATION OF FEDERAL LAW.—Contracts with urban Indian organizations entered into pursuant to this title shall be in accordance with all Federal contracting laws and regulations relating to procurement except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935 (40 U.S.C. 270a, et seq.).

''(b) PAYMENTS.—Payments under any contracts or grants pursuant to this title shall, notwithstanding any term or condition of such contract or grant—

''(1) be made in their entirety by the Secretary to the urban Indian organization by not later than the end of the first 30 days of the funding period with respect to which the payments apply, unless the Secretary determines through an evaluation under section 505 that the organization is not capable of administering such payments in their entirety; and

''(2) if unexpended by the urban Indian organization during the funding period with respect to which the payments initially apply, be carried forward for expenditure with respect to allowable or reimbursable costs incurred by the organization during 1 or more subsequent funding periods without additional justification or documentation by the organization as a condition of carrying forward the expenditure of such funds.

''(c) REVISING OR AMENDING CONTRACT.—Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract entered into by the Secretary with such organization under this title as necessary to carry out the purposes of this title.

''(d) FAIR AND UNIFORM PROVISION OF SERVICES.—Contracts with, or grants to, urban Indian organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision to urban Indians of services and assistance under such contracts or grants by such organizations.

''(e) ELIGIBILITY OF URBAN INDIANS.—Urban Indians, as defined in section 4(f), shall be eligible for health care or referral services provided pursuant to this title.

"SEC. 507. REPORTS AND RECORDS.

''(a) REPORT.—For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract entered into, or a grant received, pursuant to this title, such organization shall submit to the Secretary, on a basis no more frequent than every 6 months, a report including—

''(1) in the case of a contract or grant under section 503, information gathered pursuant to paragraph (5) of subsection (a) of such section;

''(2) information on activities conducted by the organization pursuant to the contract or grant;

''(3) an accounting of the amounts and purposes for which Federal funds were expended; and

''(4) a minimum set of data, using uniformly defined elements, that is specified by the Secretary, after consultations consistent with section 514, with urban Indian organizations.

''(b) AUDITS.—The reports and records of the urban Indian organization with respect to a contract or grant under this title shall be subject to audit by the Secretary and the Comptroller General of the United States.

''(c) COST OF AUDIT.—The Secretary shall allow as a cost of any contract or grant entered into or awarded under section 502 or 503 the cost of an annual independent financial audit conducted by—

''(1) a certified public accountant; or

''(2) a certified public accounting firm qualified to conduct Federal compliance audits.

"SEC. 508. LIMITATION ON CONTRACT AUTHORITY.

''The authority of the Secretary to enter into contracts or to award grants under this title shall be to the extent, and in an amount, provided for in appropriation Acts.

"SEC. 509. FACILITIES.

''(a) GRANTS.—The Secretary may make grants to contractors or grant recipients under this title for the lease, purchase, renovation, construction, or expansion of facilities, including leased facilities, in order to assist such contractors or grant recipients in complying with applicable licensure or certification requirements.

''(b) LOANS OR LOAN GUARANTEES.—The Secretary, acting through the Service or through the Health Resources and Services Administration, may provide loans to contractors or grant recipients under this title from the Urban Indian Health Care Facilities Revolving Loan Fund (referred to in this section as the 'URLF') described in subsection (c), or guarantees for loans, for the construction, renovation, expansion, or purchase of health care facilities, subject to the following requirements:

''(1) The principal amount of a loan or loan guarantee may cover 100 percent of the costs (other than staffing) relating to the facility, including planning, design, financing, site land development, construction, rehabilitation, renovation, conversion, medical equipment, furnishings, and capital purchase.

''(2) The total amount of the principal of loans and loan guarantees, respectively, outstanding at any one time shall not exceed such limitations as may be specified in appropriations Acts.

''(3) The loan or loan guarantee may have a term of the shorter of the estimated useful life of the facility, or 25 years.

''(4) An urban Indian organization may assign, and the Secretary may accept assignment of, the revenue of the organization as security for a loan or loan guarantee under this subsection.

''(5) The Secretary shall not collect application, processing, or similar fees from urban Indian organizations applying for loans or loan guarantees under this subsection.

''(c) URBAN INDIAN HEALTH CARE FACILITIES REVOLVING LOAN FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the Urban Indian Health Care Facilities Revolving Loan Fund. The URLF shall consist of—

''(A) such amounts as may be appropriated to the URLF;

''(B) amounts received from urban Indian organizations in repayment of loans made to such organizations under paragraph (2); and

''(C) interest earned on amounts in the URLF under paragraph (3).

''(2) USE OF URLF.—Amounts in the URLF may be expended by the Secretary, acting through the Service or the Health Resources and Services Administration, to make loans available to urban Indian organizations receiving grants or contracts under this title for the purposes, and subject to the requirements, described in subsection (b). Amounts appropriated to the URLF, amounts received from urban Indian organizations in repayment of loans, and interest on amounts in the URLF shall remain available until expended.

''(3) INVESTMENTS.—The Secretary of the Treasury shall invest such amounts of the URLF as such Secretary determines are not required to meet current withdrawals from the URLF. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price. Any obligation acquired by the URLF may be sold by the Secretary of the Treasury at the market price.

"SEC. 510. OFFICE OF URBAN INDIAN HEALTH.

''There is hereby established within the Service an Office of Urban Indian Health which shall be responsible for—

''(1) carrying out the provisions of this title;

''(2) providing central oversight of the programs and services authorized under this title; and

''(3) providing technical assistance to urban Indian organizations.

"SEC. 511. GRANTS FOR ALCOHOL AND SUBSTANCE ABUSE RELATED SERVICES.

''(a) GRANTS.—The Secretary may make grants for the provision of health-related services in prevention of, treatment of, rehabilitation of, or school and community-based education in, alcohol and substance abuse in urban centers to those urban Indian organizations with whom the Secretary has entered into a contract under this title or under section 201.

''(b) GOALS OF GRANT.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

''(c) CRITERIA.—The Secretary shall establish criteria for the grants made under subsection (a), including criteria relating to the—

''(1) size of the urban Indian population;

''(2) capability of the organization to adequately perform the activities required under the grant;

''(3) satisfactory performance standards for the organization in meeting the goals set forth in such grant, which standards shall be negotiated and agreed to between the Secretary and the grantee on a grant-by-grant basis; and

''(4) identification of need for services.

The Secretary shall develop a methodology for allocating grants made pursuant to this section based on such criteria.

''(d) TREATMENT OF FUNDS RECEIVED BY URBAN INDIAN ORGANIZATIONS.—Any funds received by an urban Indian organization under this Act for substance abuse prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c).

"SEC. 512. TREATMENT OF CERTAIN DEMONSTRATION PROJECTS.

''(a) TULSA AND OKLAHOMA CITY CLINICS.—Notwithstanding any other provision of law, the Tulsa and Oklahoma City Clinic demonstration projects shall become permanent programs within the Service's direct care program and continue to be treated as service units in the allocation of resources and

coordination of care, and shall continue to meet the requirements and definitions of an urban Indian organization in this title, and as such will not be subject to the provisions of the Indian Self-Determination and Education Assistance Act.

''(b) REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be submitted to the Congress under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects specified in subsection (a).

''SEC. 513. URBAN NIAAA TRANSFERRED PROGRAMS.

''(a) GRANTS AND CONTRACTS.—The Secretary, acting through the Office of Urban Indian Health of the Service, shall make grants or enter into contracts, effective not later than September 30, 2002, with urban Indian organizations for the administration of urban Indian alcohol programs that were originally established under the National Institute on Alcoholism and Alcohol Abuse (referred to in this section to as 'NIAAA') and transferred to the Service.

''(b) USE OF FUNDS.—Grants provided or contracts entered into under this section shall be used to provide support for the continuation of alcohol prevention and treatment services for urban Indian populations and such other objectives as are agreed upon between the Service and a recipient of a grant or contract under this section.

''(c) ELIGIBILITY.—Urban Indian organizations that operate Indian alcohol programs originally funded under NIAAA and subsequently transferred to the Service are eligible for grants or contracts under this section.

''(d) EVALUATION AND REPORT.—The Secretary shall evaluate and report to the Congress on the activities of programs funded under this section at least every 5 years.

''SEC. 514. CONSULTATION WITH URBAN INDIAN ORGANIZATIONS.

''(a) IN GENERAL.—The Secretary shall ensure that the Service, the Health Care Financing Administration, and other operating divisions and staff divisions of the Department consult, to the maximum extent practicable, with urban Indian organizations (as defined in section 4) prior to taking any action, or approving Federal financial assistance for any action of a State, that may affect urban Indians or urban Indian organizations.

''(b) REQUIREMENT.—In subsection (a), the term 'consultation' means the open and free exchange of information and opinion among urban Indian organizations and the operating and staff divisions of the Department which leads to mutual understanding and comprehension and which emphasizes trust, respect, and shared responsibility.

''SEC. 515. FEDERAL TORT CLAIMS ACT COVERAGE.

''For purposes of section 224 of the Public Health Service Act (42 U.S.C. 233), with respect to claims by any person, initially filed on or after October 1, 1999, whether or not such person is an Indian or Alaska Native or is served on a fee basis or under other circumstances as permitted by Federal law or regulations, for personal injury (including death) resulting from the performance prior to, including, or after October 1, 1999, of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, or for purposes of section 2679 of title 28, United States Code, with respect to claims by any such person, on or after October 1, 1999, for personal injury (including death) resulting from the operation of an emergency motor vehicle, an urban Indian organization that has entered into a contract or received a grant pursuant to this title is deemed to be part of the Public Health Service while carrying out any such contract or grant and its employees (including those acting on behalf of the organization as provided for in section 2671 of title 28, United States Code, and including an individual who provides health care services pursuant to a personal services contract with an urban Indian organization for the provision of services in any facility owned, operated, or constructed under the jurisdiction of the Indian Health Service) are deemed employees of the Service while acting within the scope of their employment in carrying out the contract or grant, except that such employees shall be deemed to be acting within the scope of their employment in carrying out the contract or grant when they are required, by reason of their employment, to perform medical, surgical, dental or related functions at a facility other than a facility operated by the urban Indian organization pursuant to such contract or grant, but only if such employees are not compensated for the performance of such functions by a person or entity other than the urban Indian organization.

''SEC. 516. URBAN YOUTH TREATMENT CENTER DEMONSTRATION.

''(a) CONSTRUCTION AND OPERATION.—The Secretary, acting through the Service, shall, through grants or contracts, make payment for the construction and operation of at least 2 residential treatment centers in each State described in subsection (b) to demonstrate the provision of alcohol and substance abuse treatment services to urban Indian youth in a culturally competent residential setting.

''(b) STATES.—A State described in this subsection is a State in which—

''(1) there reside urban Indian youth with a need for alcohol and substance abuse treatment services in a residential setting; and

''(2) there is a significant shortage of culturally competent residential treatment services for urban Indian youth.

''SEC. 517. USE OF FEDERAL GOVERNMENT FACILITIES AND SOURCES OF SUPPLY.

''(a) IN GENERAL.—The Secretary shall permit an urban Indian organization that has entered into a contract or received a grant pursuant to this title, in carrying out such contract or grant, to use existing facilities and all equipment therein or pertaining thereto and other personal property owned by the Federal Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.

''(b) DONATION OF PROPERTY.—Subject to subsection (d), the Secretary may donate to an urban Indian organization that has entered into a contract or received a grant pursuant to this title any personal or real property determined to be excess to the needs of the Service or the General Services Administration for purposes of carrying out the contract or grant.

''(c) ACQUISITION OF PROPERTY.—The Secretary may acquire excess or surplus government personal or real property for donation, subject to subsection (d), to an urban Indian organization that has entered into a contract or received a grant pursuant to this title if the Secretary determines that the property is appropriate for use by the urban Indian organization for a purpose for which a contract or grant is authorized under this title.

''(d) PRIORITY.—In the event that the Secretary receives a request for a specific item of personal or real property described in subsections (b) or (c) from an urban Indian organization and from an Indian tribe or tribal organization, the Secretary shall give priority to the request for donation to the Indian tribe or tribal organization if the Secretary receives the request from the Indian tribe or tribal organization before the date on which the Secretary transfers title to the property or, if earlier, the date on which the Secretary transfers the property physically, to the urban Indian organization.

''(e) RELATION TO FEDERAL SOURCES OF SUPPLY.—For purposes of section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)) (relating to Federal sources of supply, including lodging providers, airlines, and other transportation providers), an urban Indian organization that has entered into a contract or received a grant pursuant to this title shall be deemed an executive agency when carrying out such contract or grant, and the employees of the urban Indian organization shall be eligible to have access to such sources of supply on the same basis as employees of an executive agency have such access.

''SEC. 518. GRANTS FOR DIABETES PREVENTION, TREATMENT AND CONTROL.

''(a) AUTHORITY.—The Secretary may make grants to those urban Indian organizations that have entered into a contract or have received a grant under this title for the provision of services for the prevention, treatment, and control of the complications resulting from, diabetes among urban Indians.

''(b) GOALS.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished under the grant. The goals shall be specific to each grant as agreed upon between the Secretary and the grantee.

''(c) CRITERIA.—The Secretary shall establish criteria for the awarding of grants made under subsection (a) relating to—

''(1) the size and location of the urban Indian population to be served;

''(2) the need for the prevention of, treatment of, and control of the complications resulting from diabetes among the urban Indian population to be served;

''(3) performance standards for the urban Indian organization in meeting the goals set forth in such grant that are negotiated and agreed to by the Secretary and the grantee;

''(4) the capability of the urban Indian organization to adequately perform the activities required under the grant; and

''(5) the willingness of the urban Indian organization to collaborate with the registry, if any, established by the Secretary under section 204(e) in the area office of the Service in which the organization is located.

''(d) APPLICATION OF CRITERIA.—Any funds received by an urban Indian organization under this Act for the prevention, treatment, and control of diabetes among urban Indians shall be subject to the criteria developed by the Secretary under subsection (c).

''SEC. 519. COMMUNITY HEALTH REPRESENTATIVES.

''The Secretary, acting through the Service, may enter into contracts with, and make grants to, urban Indian organizations for the use of Indians trained as health service providers through the Community Health Representatives Program under section 107(b) in the provision of health care, health promotion, and disease prevention services to urban Indians.

''SEC. 520. REGULATIONS.

''(a) EFFECT OF TITLE.—This title shall be effective on the date of enactment of this Act regardless of whether the Secretary has promulgated regulations implementing this title.

''(b) PROMULGATION.—

''(1) IN GENERAL.—The Secretary may promulgate regulations to implement the provisions of this title.

''(2) PUBLICATION.—Proposed regulations to implement this title shall be published by the Secretary in the Federal Register not later than 270 days after the date of enactment of this Act and shall have a comment period of not less than 120 days.

''(3) EXPIRATION OF AUTHORITY.—The authority to promulgate regulations under this title shall expire on the date that is 18 months after the date of enactment of this Act.

''(c) NEGOTIATED RULEMAKING COMMITTEE.—A negotiated rulemaking committee shall be established pursuant to section 565 of title 5, United States Code, to carry out this section and shall, in addition to Federal representatives, have as the majority of its members representatives of urban Indian organizations from each service area.

''(d) ADAPTION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of this Act.

''SEC. 521. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2013 to carry out this title.

''TITLE VI—ORGANIZATIONAL IMPROVEMENTS

''SEC. 601. ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes, as are or may be hereafter provided by Federal statute or treaties, there is established within the Public Health Service of the Department the Indian Health Service.

''(2) ASSISTANT SECRETARY OF INDIAN HEALTH.—The Service shall be administered by an Assistance Secretary of Indian Health, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary shall report to the Secretary. Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 1993, the term of service of the Assistant Secretary shall be 4 years. An Assistant Secretary may serve more than 1 term.

''(b) AGENCY.—The Service shall be an agency within the Public Health Service of the Department, and shall not be an office, component, or unit of any other agency of the Department.

''(c) FUNCTIONS AND DUTIES.—The Secretary shall carry out through the Assistant Secretary of the Service—

''(1) all functions which were, on the day before the date of enactment of the Indian Health Care Amendments of 1988, carried out by or under the direction of the individual serving as Director of the Service on such day;

''(2) all functions of the Secretary relating to the maintenance and operation of hospital and health facilities for Indians and the planning for, and provision and utilization of, health services for Indians;

''(3) all health programs under which health care is provided to Indians based upon their status as Indians which are administered by the Secretary, including programs under—

''(A) this Act;

''(B) the Act of November 2, 1921 (25 U.S.C. 13);

''(C) the Act of August 5, 1954 (42 U.S.C. 2001, et seq.);

''(D) the Act of August 16, 1957 (42 U.S.C. 2005 et seq.); and

''(E) the Indian Self-Determination Act (25 U.S.C. 450f, et seq.); and

''(4) all scholarship and loan functions carried out under title I.

''(d) AUTHORITY.—

''(1) IN GENERAL.—The Secretary, acting through the Assistant Secretary, shall have the authority—

''(A) except to the extent provided for in paragraph (2), to appoint and compensate employees for the Service in accordance with title 5, United States Code;

''(B) to enter into contracts for the procurement of goods and services to carry out the functions of the Service; and

''(C) to manage, expend, and obligate all funds appropriated for the Service.

''(2) PERSONNEL ACTIONS.—Notwithstanding any other provision of law, the provisions of section 12 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 472), shall apply to all personnel actions taken with respect to new positions created within the Service as a result of its establishment under subsection (a).

''SEC. 602. AUTOMATED MANAGEMENT INFORMATION SYSTEM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary, in consultation with tribes, tribal organizations, and urban Indian organizations, shall establish an automated management information system for the Service.

''(2) REQUIREMENTS OF SYSTEM.—The information system established under paragraph (1) shall include—

''(A) a financial management system;

''(B) a patient care information system;

''(C) a privacy component that protects the privacy of patient information;

''(D) a services-based cost accounting component that provides estimates of the costs associated with the provision of specific medical treatments or services in each area office of the Service;

''(E) an interface mechanism for patient billing and accounts receivable system; and

''(F) a training component.

''(b) PROVISION OF SYSTEMS TO TRIBES AND ORGANIZATIONS.—The Secretary shall provide each Indian tribe and tribal organization that provides health services under a contract entered into with the Service under the Indian Self-Determination Act automated management information systems which—

''(1) meet the management information needs of such Indian tribe or tribal organization with respect to the treatment by the Indian tribe or tribal organization of patients of the Service; and

''(2) meet the management information needs of the Service.

''(c) ACCESS TO RECORDS.—Notwithstanding any other provision of law, each patient shall have reasonable access to the medical or health records of such patient which are held by, or on behalf of, the Service.

''(d) AUTHORITY TO ENHANCE INFORMATION TECHNOLOGY.—The Secretary, acting through the Assistant Secretary, shall have the authority to enter into contracts, agreements or joint ventures with other Federal agencies, States, private and nonprofit organizations, for the purpose of enhancing information technology in Indian health programs and facilities.

''SEC. 603. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2013 to carry out this title.

''TITLE VII—BEHAVIORAL HEALTH PROGRAMS

''SEC. 701. BEHAVIORAL HEALTH PREVENTION AND TREATMENT SERVICES.

''(a) PURPOSES.—It is the purpose of this section to—

''(1) authorize and direct the Secretary, acting through the Service, Indian tribes, tribal organizations, and urban Indian organizations to develop a comprehensive behavioral health prevention and treatment program which emphasizes collaboration among alcohol and substance abuse, social services, and mental health programs;

''(2) provide information, direction and guidance relating to mental illness and dysfunction and self-destructive behavior, including child abuse and family violence, to those Federal, tribal, State and local agencies responsible for programs in Indian communities in areas of health care, education, social services, child and family welfare, alcohol and substance abuse, law enforcement and judicial services;

''(3) assist Indian tribes to identify services and resources available to address mental illness and dysfunctional and self-destructive behavior;

''(4) provide authority and opportunities for Indian tribes to develop and implement, and coordinate with, community-based programs which include identification, prevention, education, referral, and treatment services, including through multi-disciplinary resource teams;

''(5) ensure that Indians, as citizens of the United States and of the States in which they reside, have the same access to behavioral health services to which all citizens have access; and

''(6) modify or supplement existing programs and authorities in the areas identified in paragraph (2).

''(b) BEHAVIORAL HEALTH PLANNING.—

''(1) AREA-WIDE PLANS.—The Secretary, acting through the Service, Indian tribes, tribal organizations, and urban Indian organizations, shall encourage Indian tribes and tribal organizations to develop tribal plans, encourage urban Indian organizations to develop local plans, and encourage all such groups to participate in developing area-wide plans for Indian Behavioral Health Services. The plans shall, to the extent feasible, include—

''(A) an assessment of the scope of the problem of alcohol or other substance abuse, mental illness, dysfunctional and self-destructive behavior, including suicide, child abuse and family violence, among Indians, including—

''(i) the number of Indians served who are directly or indirectly affected by such illness or behavior; and

''(ii) an estimate of the financial and human cost attributable to such illness or behavior;

''(B) an assessment of the existing and additional resources necessary for the prevention and treatment of such illness and behavior, including an assessment of the progress toward achieving the availability of the full continuum of care described in subsection (c); and

''(C) an estimate of the additional funding needed by the Service, Indian tribes, tribal organizations and urban Indian organizations to meet their responsibilities under the plans.

''(2) NATIONAL CLEARINGHOUSE.—The Secretary shall establish a national clearinghouse of plans and reports on the outcomes

of such plans developed under this section by Indian tribes, tribal organizations and by areas relating to behavioral health. The Secretary shall ensure access to such plans and outcomes by any Indian tribe, tribal organization, urban Indian organization or the Service.

''(3) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to Indian tribes, tribal organizations, and urban Indian organizations in preparation of plans under this section and in developing standards of care that may be utilized and adopted locally.

''(c) CONTINUUM OF CARE.—The Secretary, acting through the Service, Indian tribes and tribal organizations, shall provide, to the extent feasible and to the extent that funding is available, for the implementation of programs including—

''(1) a comprehensive continuum of behavioral health care that provides for—

''(A) community based prevention, intervention, outpatient and behavioral health aftercare;

''(B) detoxification (social and medical);

''(C) acute hospitalization;

''(D) intensive outpatient or day treatment;

''(E) residential treatment;

''(F) transitional living for those needing a temporary stable living environment that is supportive of treatment or recovery goals;

''(G) emergency shelter;

''(H) intensive case management;

''(I) traditional health care practices; and

''(J) diagnostic services, including the utilization of neurological assessment technology; and

''(2) behavioral health services for particular populations, including—

''(A) for persons from birth through age 17, child behavioral health services, that include—

''(i) pre-school and school age fetal alcohol disorder services, including assessment and behavioral intervention);

''(ii) mental health or substance abuse services (emotional, organic, alcohol, drug, inhalant and tobacco);

''(iii) services for co-occurring disorders (multiple diagnosis);

''(iv) prevention services that are focused on individuals ages 5 years through 10 years (alcohol, drug, inhalant and tobacco);

''(v) early intervention, treatment and aftercare services that are focused on individuals ages 11 years through 17 years;

''(vi) healthy choices or life style services (related to STD's, domestic violence, sexual abuse, suicide, teen pregnancy, obesity, and other risk or safety issues);

''(vii) co-morbidity services;

''(B) for persons ages 18 years through 55 years, adult behavioral health services that include—

''(i) early intervention, treatment and aftercare services;

''(ii) mental health and substance abuse services (emotional, alcohol, drug, inhalant and tobacco);

''(iii) services for co-occurring disorders (dual diagnosis) and co-morbidity;

''(iv) healthy choices and life style services (related to parenting, partners, domestic violence, sexual abuse, suicide, obesity, and other risk related behavior);

''(v) female specific treatment services for—

''(I) women at risk of giving birth to a child with a fetal alcohol disorder;

''(II) substance abuse requiring gender specific services;

''(III) sexual assault and domestic violence; and

''(IV) healthy choices and life style (parenting, partners, obesity, suicide and other related behavioral risk); and

''(vi) male specific treatment services for—

''(I) substance abuse requiring gender specific services;

''(II) sexual assault and domestic violence; and

''(III) healthy choices and life style (parenting, partners, obesity, suicide and other risk related behavior);

''(C) family behavioral health services, including—

''(i) early intervention, treatment and aftercare for affected families;

''(ii) treatment for sexual assault and domestic violence; and

''(iii) healthy choices and life style (related to parenting, partners, domestic violence and other abuse issues);

''(D) for persons age 56 years and older, elder behavioral health services including—

''(i) early intervention, treatment and aftercare services that include—

''(I) mental health and substance abuse services (emotional, alcohol, drug, inhalant and tobacco);

''(II) services for co-occurring disorders (dual diagnosis) and co-morbidity; and

''(III) healthy choices and life style services (managing conditions related to aging);

''(ii) elder women specific services that include—

''(I) treatment for substance abuse requiring gender specific services and

''(II) treatment for sexual assault, domestic violence and neglect;

''(iii) elder men specific services that include—

''(I) treatment for substance abuse requiring gender specific services; and

''(II) treatment for sexual assault, domestic violence and neglect; and

''(iv) services for dementia regardless of cause.

''(d) COMMUNITY BEHAVIORAL HEALTH PLAN.—

''(1) IN GENERAL.—The governing body of any Indian tribe or tribal organization or urban Indian organization may, at its discretion, adopt a resolution for the establishment of a community behavioral health plan providing for the identification and coordination of available resources and programs to identify, prevent, or treat alcohol and other substance abuse, mental illness or dysfunctional and self-destructive behavior, including child abuse and family violence, among its members or its service population. Such plan should include behavioral health services, social services, intensive outpatient services, and continuing after care.

''(2) TECHNICAL ASSISTANCE.—In furtherance of a plan established pursuant to paragraph (1) and at the request of a tribe, the appropriate agency, service unit, or other officials of the Bureau of Indian Affairs and the Service shall cooperate with, and provide technical assistance to, the Indian tribe or tribal organization in the development of a plan under paragraph (1). Upon the establishment of such a plan and at the request of the Indian tribe or tribal organization, such officials shall cooperate with the Indian tribe or tribal organization in the implementation of such plan.

''(3) FUNDING.—The Secretary, acting through the Service, may make funding available to Indian tribes and tribal organizations adopting a resolution pursuant to paragraph (1) to obtain technical assistance for the development of a community behavioral health plan and to provide administrative support in the implementation of such plan.

''(e) COORDINATED PLANNING.—The Secretary, acting through the Service, Indian tribes, tribal organizations, and urban Indian organizations shall coordinate behavioral health planning, to the extent feasible, with other Federal and State agencies, to ensure that comprehensive behavioral health services are available to Indians without regard to their place of residence.

''(f) FACILITIES ASSESSMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary, acting through the Service, shall make an assessment of the need for inpatient mental health care among Indians and the availability and cost of inpatient mental health facilities which can meet such need. In making such assessment, the Secretary shall consider the possible conversion of existing, under-utilized service hospital beds into psychiatric units to meet such need.

''SEC. 702. MEMORANDUM OF AGREEMENT WITH THE DEPARTMENT OF THE INTERIOR.

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of the Interior shall develop and enter into a memorandum of agreement, or review and update any existing memoranda of agreement as required under section 4205 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411), and under which the Secretaries address—

''(1) the scope and nature of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, among Indians;

''(2) the existing Federal, tribal, State, local, and private services, resources, and programs available to provide mental health services for Indians;

''(3) the unmet need for additional services, resources, and programs necessary to meet the needs identified pursuant to paragraph (1);

''(4)(A) the right of Indians, as citizens of the United States and of the States in which they reside, to have access to mental health services to which all citizens have access;

''(B) the right of Indians to participate in, and receive the benefit of, such services; and

''(C) the actions necessary to protect the exercise of such right;

''(5) the responsibilities of the Bureau of Indian Affairs and the Service, including mental health identification, prevention, education, referral, and treatment services (including services through multidisciplinary resource teams), at the central, area, and agency and service unit levels to address the problems identified in paragraph (1);

''(6) a strategy for the comprehensive coordination of the mental health services provided by the Bureau of Indian Affairs and the Service to meet the needs identified pursuant to paragraph (1), including—

''(A) the coordination of alcohol and substance abuse programs of the Service, the Bureau of Indian Affairs, and the various Indian tribes (developed under the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986) with the mental health initiatives pursuant to this Act, particularly with respect to the referral and treatment of dually-diagnosed individuals requiring mental health and substance abuse treatment; and

''(B) ensuring that Bureau of Indian Affairs and Service programs and services (including multidisciplinary resource teams) addressing child abuse and family violence are coordinated with such non-Federal programs and services;

''(7) direct appropriate officials of the Bureau of Indian Affairs and the Service, particularly at the agency and service unit levels, to cooperate fully with tribal requests made pursuant to community behavioral health plans adopted under section 701(c) and section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2412); and

''(8) provide for an annual review of such agreement by the 2 Secretaries and a report which shall be submitted to Congress and made available to the Indian tribes.

''(b) SPECIFIC PROVISIONS.—The memorandum of agreement updated or entered into pursuant to subsection (a) shall include specific provisions pursuant to which the Service shall assume responsibility for—

''(1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost;

''(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse; and

''(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

''(c) CONSULTATION.—The Secretary and the Secretary of the Interior shall, in developing the memorandum of agreement under subsection (a), consult with and solicit the comments of—

''(1) Indian tribes and tribal organizations;

''(2) Indian individuals;

''(3) urban Indian organizations and other Indian organizations;

''(4) behavioral health service providers.

''(d) PUBLICATION.—The memorandum of agreement under subsection (a) shall be published in the Federal Register. At the same time as the publication of such agreement in the Federal Register, the Secretary shall provide a copy of such memorandum to each Indian tribe, tribal organization, and urban Indian organization.

''SEC. 703. COMPREHENSIVE BEHAVIORAL HEALTH PREVENTION AND TREATMENT PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary, acting through the Service, Indian tribes and tribal organizations consistent with section 701, shall provide a program of comprehensive behavioral health prevention and treatment and aftercare, including systems of care and traditional health care practices, which shall include—

''(A) prevention, through educational intervention, in Indian communities;

''(B) acute detoxification or psychiatric hospitalization and treatment (residential and intensive outpatient);

''(C) community-based rehabilitation and aftercare;

''(D) community education and involvement, including extensive training of health care, educational, and community-based personnel;

''(E) specialized residential treatment programs for high risk populations including pregnant and post partum women and their children;

''(F) diagnostic services utilizing, when appropriate, neuropsychiatric assessments which include the use of the most advances technology available; and

''(G) a telepsychiatry program that uses experts in the field of pediatric psychiatry, and that incorporates assessment, diagnosis and treatment for children, including those children with concurrent neurological disorders.

''(2) TARGET POPULATIONS.—The target population of the program under paragraph (1) shall be members of Indian tribes. Efforts to train and educate key members of the Indian community shall target employees of health, education, judicial, law enforcement, legal, and social service programs.

''(b) CONTRACT HEALTH SERVICES.—

''(1) IN GENERAL.—The Secretary, acting through the Service (with the consent of the Indian tribe to be served), Indian tribes and tribal organizations, may enter into contracts with public or private providers of behavioral health treatment services for the purpose of carrying out the program required under subsection (a).

''(2) PROVISION OF ASSISTANCE.—In carrying out this subsection, the Secretary shall provide assistance to Indian tribes and tribal organizations to develop criteria for the certification of behavioral health service providers and accreditation of service facilities which meet minimum standards for such services and facilities.

''SEC. 704. MENTAL HEALTH TECHNICIAN PROGRAM.

''(a) IN GENERAL.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary shall establish and maintain a Mental Health Technician program within the Service which—

''(1) provides for the training of Indians as mental health technicians; and

''(2) employs such technicians in the provision of community-based mental health care that includes identification, prevention, education, referral, and treatment services.

''(b) TRAINING.—In carrying out subsection (a)(1), the Secretary shall provide high standard paraprofessional training in mental health care necessary to provide quality care to the Indian communities to be served. Such training shall be based upon a curriculum developed or approved by the Secretary which combines education in the theory of mental health care with supervised practical experience in the provision of such care.

''(c) SUPERVISION AND EVALUATION.—The Secretary shall supervise and evaluate the mental health technicians in the training program under this section.

''(d) TRADITIONAL CARE.—The Secretary shall ensure that the program established pursuant to this section involves the utilization and promotion of the traditional Indian health care and treatment practices of the Indian tribes to be served.–

''SEC. 705. LICENSING REQUIREMENT FOR MENTAL HEALTH CARE WORKERS.

''Subject to section 220, any person employed as a psychologist, social worker, or marriage and family therapist for the purpose of providing mental health care services to Indians in a clinical setting under the authority of this Act or through a funding agreement pursuant to the Indian Self-Determination and Education Assistance Act shall—

''(1) in the case of a person employed as a psychologist to provide health care services, be licensed as a clinical or counseling psychologist, or working under the direct supervision of a clinical or counseling psychologist;

''(2) in the case of a person employed as a social worker, be licensed as a social worker or working under the direct supervision of a licensed social worker; or

''(3) in the case of a person employed as a marriage and family therapist, be licensed as a marriage and family therapist or working under the direct supervision of a licensed marriage and family therapist.

''SEC. 706. INDIAN WOMEN TREATMENT PROGRAMS.

''(a) FUNDING.—The Secretary, consistent with section 701, shall make funding available to Indian tribes, tribal organizations and urban Indian organization to develop and implement a comprehensive behavioral health program of prevention, intervention, treatment, and relapse prevention services that specifically addresses the spiritual, cultural, historical, social, and child care needs of Indian women, regardless of age.

''(b) USE OF FUNDS.—Funding provided pursuant to this section may be used to—

''(1) develop and provide community training, education, and prevention programs for Indian women relating to behavioral health issues, including fetal alcohol disorders;

''(2) identify and provide psychological services, counseling, advocacy, support, and relapse prevention to Indian women and their families; and

''(3) develop prevention and intervention models for Indian women which incorporate traditional health care practices, cultural values, and community and family involvement.

''(c) CRITERIA.—The Secretary, in consultation with Indian tribes and tribal organizations, shall establish criteria for the review and approval of applications and proposals for funding under this section.

''(d) EARMARK OF CERTAIN FUNDS.—Twenty percent of the amounts appropriated to carry out this section shall be used to make grants to urban Indian organizations funded under title V.

''SEC. 707. INDIAN YOUTH PROGRAM.

''(a) DETOXIFICATION AND REHABILITATION.—The Secretary shall, consistent with section 701, develop and implement a program for acute detoxification and treatment for Indian youth that includes behavioral health services. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis and programs developed and implemented by Indian tribes or tribal organizations at the local level under the Indian Self-Determination and Education Assistance Act. Regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

''(b) ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTERS OR FACILITIES.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—The Secretary, acting through the Service, Indian tribes, or tribal organizations, shall construct, renovate, or, as necessary, purchase, and appropriately staff and operate, at least 1 youth regional treatment center or treatment network in each area under the jurisdiction of an area office.

''(B) AREA OFFICE IN CALIFORNIA.—For purposes of this subsection, the area office in California shall be considered to be 2 area offices, 1 office whose jurisdiction shall be considered to encompass the northern area of the State of California, and 1 office whose jurisdiction shall be considered to encompass the remainder of the State of California for the purpose of implementing California treatment networks.

''(2) FUNDING.—For the purpose of staffing and operating centers or facilities under this

subsection, funding shall be made available pursuant to the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act).

''(3) LOCATION.—A youth treatment center constructed or purchased under this subsection shall be constructed or purchased at a location within the area described in paragraph (1) that is agreed upon (by appropriate tribal resolution) by a majority of the tribes to be served by such center.

''(4) SPECIFIC PROVISION OF FUNDS.—

''(A) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary may, from amounts authorized to be appropriated for the purposes of carrying out this section, make funds available to—

''(i) the Tanana Chiefs Conference, Incorporated, for the purpose of leasing, constructing, renovating, operating and maintaining a residential youth treatment facility in Fairbanks, Alaska;

''(ii) the Southeast Alaska Regional Health Corporation to staff and operate a residential youth treatment facility without regard to the proviso set forth in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l));

''(iii) the Southern Indian Health Council, for the purpose of staffing, operating, and maintaining a residential youth treatment facility in San Diego County, California; and

''(iv) the Navajo Nation, for the staffing, operation, and maintenance of the Four Corners Regional Adolescent Treatment Center, a residential youth treatment facility in New Mexico.

''(B) PROVISION OF SERVICES TO ELIGIBLE YOUTH.—Until additional residential youth treatment facilities are established in Alaska pursuant to this section, the facilities specified in subparagraph (A) shall make every effort to provide services to all eligible Indian youth residing in such State.

''(c) INTERMEDIATE ADOLESCENT BEHAVIORAL HEALTH SERVICES.—

''(1) IN GENERAL.—The Secretary, acting through the Service, Indian Tribes and tribal organizations, may provide intermediate behavioral health services, which may incorporate traditional health care practices, to Indian children and adolescents, including—

''(A) pre-treatment assistance;

''(B) inpatient, outpatient, and after-care services;

''(C) emergency care;

''(D) suicide prevention and crisis intervention; and

''(E) prevention and treatment of mental illness, and dysfunctional and –self-destructive behavior, including child abuse and family violence.

''(2) USE OF FUNDS.—Funds provided under this subsection may be used—

''(A) to construct or renovate an existing health facility to provide intermediate behavioral health services;

''(B) to hire behavioral health professionals;

''(C) to staff, operate, and maintain an intermediate mental health facility, group home, sober housing, transitional housing or similar facilities, or youth shelter where intermediate behavioral health services are being provided; and

''(D) to make renovations and hire appropriate staff to convert existing hospital beds into adolescent psychiatric units; and

''(E) to provide intensive home- and community-based services, including collaborative systems of care.

''(3) CRITERIA.—The Secretary shall, in consultation with Indian tribes and tribal organizations, establish criteria for the review and approval of applications or proposals for funding made available pursuant to this subsection.

''(d) FEDERALLY OWNED STRUCTURES.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall, in consultation with Indian tribes and tribal organizations—

''(A) identify and use, where appropriate, federally owned structures suitable for local residential or regional behavioral health treatment for Indian youth; and

''(B) establish guidelines, in consultation with Indian tribes and tribal organizations, for determining the suitability of any such Federally owned structure to be used for local residential or regional behavioral health treatment for Indian youth.

''(2) TERMS AND CONDITIONS FOR USE OF STRUCTURE.—Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary and the agency having responsibility for the structure and any Indian tribe or tribal organization operating the program.

''(e) REHABILITATION AND AFTERCARE SERVICES.—

''(1) IN GENERAL.—The Secretary, an Indian tribe or tribal organization, in cooperation with the Secretary of the Interior, shall develop and implement within each service unit, community-based rehabilitation and follow-up services for Indian youth who have significant behavioral health problems, and require long-term treatment, community reintegration, and monitoring to support the Indian youth after their return to their home community.

''(2) ADMINISTRATION.—Services under paragraph (1) shall be administered within each service unit or tribal program by trained staff within the community who can assist the Indian youth in continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff may include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

''(f) INCLUSION OF FAMILY IN YOUTH TREATMENT PROGRAM.—In providing the treatment and other services to Indian youth authorized by this section, the Secretary, an Indian tribe or tribal organization shall provide for the inclusion of family members of such youth in the treatment programs or other services as may be appropriate. Not less than 10 percent of the funds appropriated for the purposes of carrying out subsection (e) shall be used for outpatient care of adult family members related to the treatment of an Indian youth under that subsection.

''(g) MULTIDRUG ABUSE PROGRAM.—The Secretary, acting through the Service, Indian tribes, tribal organizations and urban Indian organizations, shall provide, consistent with section 701, programs and services to prevent and treat the abuse of multiple forms of substances, including alcohol, drugs, inhalants, and tobacco, among Indian youth residing in Indian communities, on Indian reservations, and in urban areas and provide appropriate mental health services to address the incidence of mental illness among such youth.

''SEC. 708. INPATIENT AND COMMUNITY-BASED MENTAL HEALTH FACILITIES DESIGN, CONSTRUCTION AND STAFFING ASSESSMENT.

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary, acting through the Service, Indian tribes and tribal organizations, shall provide, in each area of the Service, not less than 1 inpatient mental health care facility, or the equivalent, for Indians with behavioral health problems.

''(b) TREATMENT OF CALIFORNIA.—For purposes of this section, California shall be considered to be 2 areas of the Service, 1 area whose location shall be considered to encompass the northern area of the State of California and 1 area whose jurisdiction shall be considered to encompass the remainder of the State of California.

''(c) CONVERSION OF CERTAIN HOSPITAL BEDS.—The Secretary shall consider the possible conversion of existing, under-utilized Service hospital beds into psychiatric units to meet needs under this section.

''SEC. 709. TRAINING AND COMMUNITY EDUCATION.

''(a) COMMUNITY EDUCATION.—

''(1) IN GENERAL.—The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement, or provide funding to enable Indian tribes and tribal organization to develop and implement, within each service unit or tribal program a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community.

''(2) EDUCATION.—A program under paragraph (1) shall include education concerning behavioral health for political leaders, tribal judges, law enforcement personnel, members of tribal health and education boards, and other critical members of each tribal community.

''(3) TRAINING.—Community-based training (oriented toward local capacity development) under a program under paragraph (1) shall include tribal community provider training (designed for adult learners from the communities receiving services for prevention, intervention, treatment and aftercare).

''(b) TRAINING.—The Secretary shall, either directly or through Indian tribes or tribal organization, provide instruction in the area of behavioral health issues, including instruction in crisis intervention and family relations in the context of alcohol and substance abuse, child sexual abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol disorders, to appropriate employees of the Bureau of Indian Affairs and the Service, and to personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Service, including supervisors of emergency shelters and halfway houses described in section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433).

''(c) COMMUNITY-BASED TRAINING MODELS.—In carrying out the education and training programs required by this section, the Secretary, acting through the Service and in consultation with Indian tribes, tribal organizations, Indian behavioral health experts, and Indian alcohol and substance abuse prevention experts, shall develop and provide community-based training models. Such models shall address—

''(1) the elevated risk of alcohol and behavioral health problems faced by children of alcoholics;

''(2) the cultural, spiritual, and multigenerational aspects of behavioral health problem prevention and recovery; and

''(3) community-based and multidisciplinary strategies for preventing and treating behavioral health problems.

''SEC. 710. BEHAVIORAL HEALTH PROGRAM.

''(a) PROGRAMS FOR INNOVATIVE SERVICES.—The Secretary, acting through the Service,

Indian Tribes or tribal organizations, consistent with Section 701, may develop, implement, and carry out programs to deliver innovative community-based behavioral health services to Indians.

''(b) CRITERIA.—The Secretary may award funding for a project under subsection (a) to an Indian tribe or tribal organization and may consider the following criteria:

''(1) Whether the project will address significant unmet behavioral health needs among Indians.

''(2) Whether the project will serve a significant number of Indians.

''(3) Whether the project has the potential to deliver services in an efficient and effective manner.

''(4) Whether the tribe or tribal organization has the administrative and financial capability to administer the project.

''(5) Whether the project will deliver services in a manner consistent with traditional health care.

''(6) Whether the project is coordinated with, and avoids duplication of, existing services.

''(c) FUNDING AGREEMENTS.—For purposes of this subsection, the Secretary shall, in evaluating applications or proposals for funding for projects to be operated under any funding agreement entered into with the Service under the Indian Self-Determination Act and Education Assistance Act, use the same criteria that the Secretary uses in evaluating any other application or proposal for such funding.

''SEC. 711. FETAL ALCOHOL DISORDER FUNDING.

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) IN GENERAL.—The Secretary, consistent with Section 701, acting through Indian tribes, tribal organizations, and urban Indian organizations, shall establish and operate fetal alcohol disorders programs as provided for in this section for the purposes of meeting the health status objective specified in section 3(b).

''(2) USE OF FUNDS.—Funding provided pursuant to this section shall be used to—

''(A) develop and provide community and in-school training, education, and prevention programs relating to fetal alcohol disorders;

''(B) identify and provide behavioral health treatment to high-risk women;

''(C) identify and provide appropriate educational and vocational support, counseling, advocacy, and information to fetal alcohol disorder affected persons and their families or caretakers;

''(D) develop and implement counseling and support programs in schools for fetal alcohol disorder affected children;

''(E) develop prevention and intervention models which incorporate traditional practitioners, cultural and spiritual values and community involvement;

''(F) develop, print, and disseminate education and prevention materials on fetal alcohol disorders;

''(G) develop and implement, through the tribal consultation process, culturally sensitive assessment and diagnostic tools including dysmorphology clinics and multidisciplinary fetal alcohol disorder clinics for use in tribal and urban Indian communities;

''(H) develop early childhood intervention projects from birth on to mitigate the effects of fetal alcohol disorders; and

''(I) develop and fund community-based adult fetal alcohol disorder housing and support services.

''(3) CRITERIA.—The Secretary shall establish criteria for the review and approval of applications for funding under this section.

''(b) PROVISION OF SERVICES.—The Secretary, acting through the Service, Indian tribes, tribal organizations and urban Indian organizations, shall—

''(1) develop and provide services for the prevention, intervention, treatment, and aftercare for those affected by fetal alcohol disorders in Indian communities; and

''(2) provide supportive services, directly or through an Indian tribe, tribal organization or urban Indian organization, including services to meet the special educational, vocational, school-to-work transition, and independent living needs of adolescent and adult Indians with fetal alcohol disorders.

''(c) TASK FORCE.—

''(1) IN GENERAL.—The Secretary shall establish a task force to be known as the Fetal Alcohol Disorders Task Force to advise the Secretary in carrying out subsection (b).

''(2) COMPOSITION.—The task force under paragraph (1) shall be composed of representatives from the National Institute on Drug Abuse, the National Institute on Alcohol and Alcoholism, the Office of Substance Abuse Prevention, the National Institute of Mental Health, the Service, the Office of Minority Health of the Department of Health and Human Services, the Administration for Native Americans, the National Institute of Child Health & Human Development, the Centers for Disease Control and Prevention, the Bureau of Indian Affairs, Indian tribes, tribal organizations, urban Indian communities, and Indian fetal alcohol disorders experts.

''(d) APPLIED RESEARCH.—The Secretary, acting through the Substance Abuse and Mental Health Services Administration, shall make funding available to Indian Tribes, tribal organizations and urban Indian organizations for applied research projects which propose to elevate the understanding of methods to prevent, intervene, treat, or provide rehabilitation and behavioral health aftercare for Indians and urban Indians affected by fetal alcohol disorders.

''(e) URBAN INDIAN ORGANIZATIONS.—The Secretary shall ensure that 10 percent of the amounts appropriated to carry out this section shall be used to make grants to urban Indian organizations funded under title V.

''SEC. 712. CHILD SEXUAL ABUSE AND PREVENTION TREATMENT PROGRAMS.

''(a) ESTABLISHMENT.—The Secretary and the Secretary of the Interior, acting through the Service, Indian tribes and tribal organizations, shall establish, consistent with section 701, in each service area, programs involving treatment for—

''(1) victims of child sexual abuse; and

''(2) perpetrators of child sexual abuse.

''(b) USE OF FUNDS.—Funds provided under this section shall be used to—

''(1) develop and provide community education and prevention programs related to child sexual abuse;

''(2) identify and provide behavioral health treatment to children who are victims of sexual abuse and to their families who are affected by sexual abuse;

''(3) develop prevention and intervention models which incorporate traditional health care practitioners, cultural and spiritual values, and community involvement;

''(4) develop and implement, though the tribal consultation process, culturally sensitive assessment and diagnostic tools for use in tribal and urban Indian communities.

''(5) identify and provide behavioral health treatment to perpetrators of child sexual abuse with efforts being made to begin offender and behavioral health treatment while the perpetrator is incarcerated or at the earliest possible date if the perpetrator is not incarcerated, and to provide treatment after release to the community until it is determined that the perpetrator is not a threat to children.

''SEC. 713. BEHAVIORAL MENTAL HEALTH RESEARCH.

''(a) IN GENERAL.—The Secretary, acting through the Service and in consultation with appropriate Federal agencies, shall provide funding to Indian Tribes, tribal organizations and urban Indian organizations or, enter into contracts with, or make grants to appropriate institutions, for the conduct of research on the incidence and prevalence of behavioral health problems among Indians served by the Service, Indian Tribes or tribal organizations and among Indians in urban areas. Research priorities under this section shall include—

''(1) the inter-relationship and inter-dependence of behavioral health problems with alcoholism and other substance abuse, suicide, homicides, other injuries, and the incidence of family violence; and

''(2) the development of models of prevention techniques.

''(b) SPECIAL EMPHASIS.—The effect of the inter-relationships and interdependencies referred to in subsection (a)(1) on children, and the development of prevention techniques under subsection (a)(2) applicable to children, shall be emphasized.

''SEC. 714. DEFINITIONS.

''In this title:

''(1) ASSESSMENT.—The term 'assessment' means the systematic collection, analysis and dissemination of information on health status, health needs and health problems.

''(2) ALCOHOL RELATED NEURODEVELOP-MENTAL DISORDERS.—The term 'alcohol related neurodevelop-mental disorders' or 'ARND' with respect to an individual means the individual has a history of maternal alcohol consumption during pregnancy, central nervous system involvement such as developmental delay, intellectual deficit, or neurologic abnormalities, that behaviorally, there may be problems with irritability, and failure to thrive as infants, and that as children become older there will likely be hyperactivity, attention deficit, language dysfunction and perceptual and judgment problems.

''(3) BEHAVIORAL HEALTH.—The term 'behavioral health' means the blending of substances (alcohol, drugs, inhalants and tobacco) abuse and mental health prevention and treatment, for the purpose of providing comprehensive services. Such term includes the joint development of substance abuse and mental health treatment planning and coordinated case management using a multidisciplinary approach.

''(4) BEHAVIORAL HEALTH AFTERCARE.—

''(A) IN GENERAL.—The term 'behavioral health aftercare' includes those activities and resources used to support recovery following inpatient, residential, intensive substance abuse or mental health outpatient or outpatient treatment, to help prevent or treat relapse, including the development of an aftercare plan.

''(B) AFTERCARE PLAN.—Prior to the time at which an individual is discharged from a level of care, such as outpatient treatment, an aftercare plan shall have been developed for the individual. Such plan may use such resources as community base therapeutic group care, transitional living, a 12-step sponsor, a local 12-step or other related support group, or other community based providers (such as mental health professionals, traditional health care practitioners, community health aides, community health representatives, mental health technicians, or ministers).

''(5) DUAL DIAGNOSIS.—The term 'dual diagnosis' means coexisting substance abuse and mental illness conditions or diagnosis. In individual with a dual diagnosis may be referred to as a mentally ill chemical abuser.–

''(6) FETAL ALCOHOL DISORDERS.—The term 'fetal alcohol disorders' means fetal alcohol syndrome, partial fetal alcohol syndrome, or alcohol related neural developmental disorder.

''(7) FETAL ALCOHOL SYNDROME.—The term 'fetal alcohol syndrome' or 'FAS' with respect to an individual means a syndrome in which the individual has a history of maternal alcohol consumption during pregnancy, and with respect to which the following criteria should be met:

''(A) Central nervous system involvement such as developmental delay, intellectual deficit, microencephaly, or neurologic abnormalities.

''(B) Craniofacial abnormalities with at least 2 of the following: microphthalmia, short palpebral fissures, poorly developed philtrum, thin upper lip, flat nasal bridge, and short upturned nose.

''(C) Prenatal or postnatal growth delay.

''(8) PARTIAL FAS.—The term 'partial FAS' with respect to an individual means a history of maternal alcohol consumption during pregnancy having most of the criteria of FAS, though not meeting a minimum of at least 2 of the following: micro-ophthalmia, short palpebral fissures, poorly developed philtrum, thin upper lip, flat nasal bridge, short upturned nose.

''(9) REHABILITATION.—The term 'rehabilitation' means to restore the ability or capacity to engage in usual and customary life activities through education and therapy.

''(10) SUBSTANCE ABUSE.—The term 'substance abuse' includes inhalant abuse.

''SEC. 715. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2013 to carry out this title.

''TITLE VIII—MISCELLANEOUS

''SEC. 801. REPORTS.

''The President shall, at the time the budget is submitted under section 1105 of title 31, United States Code, for each fiscal year transmit to the Congress a report containing—

''(1) a report on the progress made in meeting the objectives of this Act, including a review of programs established or assisted pursuant to this Act and an assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and ensure a health status for Indians, which are at a parity with the health services available to and the health status of, the general population, including specific comparisons of appropriations provided and those required for such parity;

''(2) a report on whether, and to what extent, new national health care programs, benefits, initiatives, or financing systems have had an impact on the purposes of this Act and any steps that the Secretary may have taken to consult with Indian tribes to address such impact, including a report on proposed changes in the allocation of funding pursuant to section 808;

''(3) a report on the use of health services by Indians—

''(A) on a national and area or other relevant geographical basis;

''(B) by gender and age;

''(C) by source of payment and type of service;

''(D) comparing such rates of use with rates of use among comparable non-Indian populations; and

''(E) on the services provided under funding agreements pursuant to the Indian Self-Determination and Education Assistance Act;

''(4) a report of contractors concerning health care educational loan repayments under section 110;

''(5) a general audit report on the health care educational loan repayment program as required under section 110(n);

''(6) a separate statement that specifies the amount of funds requested to carry out the provisions of section 201;

''(7) a report on infectious diseases as required under section 212;

''(8) a report on environmental and nuclear health hazards as required under section 214;

''(9) a report on the status of all health care facilities needs as required under sections 301(c)(2) and 301(d);

''(10) a report on safe water and sanitary waste disposal facilities as required under section 302(h)(1);

''(11) a report on the expenditure of non-service funds for renovation as required under sections 305(a)(2) and 305(a)(3);

''(12) a report identifying the backlog of maintenance and repair required at Service and tribal facilities as required under section 314(a);

''(13) a report providing an accounting of reimbursement funds made available to the Secretary under titles XVIII and XIX of the Social Security Act as required under section 403(a);

''(14) a report on services sharing of the Service, the Department of Veterans Affairs, and other Federal agency health programs as required under section 412(c)(2);

''(15) a report on the evaluation and renewal of urban Indian programs as required under section 505;

''(16) a report on the findings and conclusions derived from the demonstration project as required under section 512(a)(2);

''(17) a report on the evaluation of programs as required under section 513; and

''(18) a report on alcohol and substance abuse as required under section 701(f).

''SEC. 802. REGULATIONS.

''(a) INITIATION OF RULEMAKING PROCEDURES.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate such regulations or amendments thereto that are necessary to carry out this Act.

''(2) PUBLICATION.—Proposed regulations to implement this Act shall be published in the Federal Register by the Secretary not later than 270 days after the date of enactment of this Act and shall have not less than a 120 day comment period.

''(3) EXPIRATION OF AUTHORITY.—The authority to promulgate regulations under this Act shall expire 18 months from the date of enactment of this Act.

''(b) RULEMAKING COMMITTEE.—A negotiated rulemaking committee established pursuant to section 565 of Title 5, United States Code, to carry out this section shall have as its members only representatives of the Federal Government and representatives of Indian tribes, and tribal organizations, a majority of whom shall be nominated by and be representatives of Indian tribes, tribal organizations, and urban Indian organizations from each service area.

''(c) ADAPTION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian Tribes.

''(d) FAILURE TO PROMULGATE REGULATIONS.—The lack of promulgated regulations shall not limit the effect of this Act.

''(e) SUPREMACY OF PROVISIONS.—The provisions of this Act shall supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before the date of enactment of the Indian Self-Determination Contract Reform Act of 1994, and the Secretary is authorized to repeal any regulation that is inconsistent with the provisions of this Act.

''SEC. 803. PLAN OF IMPLEMENTATION.

''Not later than 240 days after the date of enactment of this Act, the Secretary, in consultation with Indian tribes, tribal organizations, and urban Indian organizations, shall prepare and submit to Congress a plan that shall explain the manner and schedule (including a schedule of appropriate requests), by title and section, by which the Secretary will implement the provisions of this Act.

''SEC. 804. AVAILABILITY OF FUNDS.

''Amounts appropriated under this Act shall remain available until expended.

''SEC. 805. LIMITATION ON USE OF FUNDS APPROPRIATED TO THE INDIAN HEALTH SERVICE.

''Any limitation on the use of funds contained in an Act providing appropriations for the Department for a period with respect to the performance of abortions shall apply for that period with respect to the performance of abortions using funds contained in an Act providing appropriations for the Service.

''SEC. 806. ELIGIBILITY OF CALIFORNIA INDIANS.

''(a) ELIGIBILITY.—

''(1) IN GENERAL.—Until such time as any subsequent law may otherwise provide, the following California Indians shall be eligible for health services provided by the Service:

''(1) Any member of a Federally recognized Indian tribe.

''(2) Any descendant of an Indian who was residing in California on June 1, 1852, but only if such descendant—

''(A) is a member of the Indian community served by a local program of the Service; and

''(B) is regarded as an Indian by the community in which such descendant lives.

''(3) Any Indian who holds trust interests in public domain, national forest, or Indian reservation allotments in California.

''(4) Any Indian in California who is listed on the plans for distribution of the assets of California rancherias and reservations under the Act of August 18, 1958 (72 Stat. 619), and any descendant of such an Indian.

''(b) RULE OF CONSTRUCTION.—Nothing in this section may be construed as expanding the eligibility of California Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

''SEC. 807. HEALTH SERVICES FOR INELIGIBLE PERSONS.

''(a) INELIGIBLE PERSONS.—

''(1) IN GENERAL.—Any individual who—

''(A) has not attained 19 years of age;

''(B) is the natural or adopted child, stepchild, foster-child, legal ward, or orphan of an eligible Indian; and

''(C) is not otherwise eligible for the health services provided by the Service,

shall be eligible for all health services provided by the Service on the same basis and subject to the same rules that apply to eligible Indians until such individual attains 19 years of age. The existing and potential

health needs of all such individuals shall be taken into consideration by the Service in determining the need for, or the allocation of, the health resources of the Service. If such an individual has been determined to be legally incompetent prior to attaining 19 years of age, such individual shall remain eligible for such services until one year after the date such disability has been removed.

''(2) SPOUSES.—Any spouse of an eligible Indian who is not an Indian, or who is of Indian descent but not otherwise eligible for the health services provided by the Service, shall be eligible for such health services if all of such spouses or spouses who are married to members of the Indian tribe being served are made eligible, as a class, by an appropriate resolution of the governing body of the Indian tribe or tribal organization providing such services. The health needs of persons made eligible under this paragraph shall not be taken into consideration by the Service in determining the need for, or allocation of, its health resources.

''(b) PROGRAMS AND SERVICES.—

''(1) PROGRAMS.—

''(A) IN GENERAL.—The Secretary may provide health services under this subsection through health programs operated directly by the Service to individuals who reside within the service area of a service unit and who are not eligible for such health services under any other subsection of this section or under any other provision of law if—

''(i) the Indian tribe (or, in the case of a multi-tribal service area, all the Indian tribes) served by such service unit requests such provision of health services to such individuals; and

''(ii) the Secretary and the Indian tribe or tribes have jointly determined that—

''(I) the provision of such health services will not result in a denial or diminution of health services to eligible Indians; and

''(II) there is no reasonable alternative health program or services, within or without the service area of such service unit, available to meet the health needs of such individuals.

''(B) FUNDING AGREEMENTS.—In the case of health programs operated under a funding agreement entered into under the Indian Self-Determination and Educational Assistance Act, the governing body of the Indian tribe or tribal organization providing health services under such funding agreement is authorized to determine whether health services should be provided under such funding agreement to individuals who are not eligible for such health services under any other subsection of this section or under any other provision of law. In making such determinations, the governing body of the Indian tribe or tribal organization shall take into account the considerations described in subparagraph (A)(ii).

''(2) LIABILITY FOR PAYMENT.—

''(A) IN GENERAL.—Persons receiving health services provided by the Service by reason of this subsection shall be liable for payment of such health services under a schedule of charges prescribed by the Secretary which, in the judgment of the Secretary, results in reimbursement in an amount not less than the actual cost of providing the health services. Notwithstanding section 1880 of the Social Security Act, section 402(a) of this Act, or any other provision of law, amounts collected under this subsection, including medicare or medicaid reimbursements under titles XVIII and XIX of the Social Security Act, shall be credited to the account of the program providing the service and shall be used solely for the provision of health services within that program. Amounts collected under this subsection shall be available for expenditure within such program for not to exceed 1 fiscal year after the fiscal year in which collected.

''(B) SERVICES FOR INDIGENT PERSONS.—Health services may be provided by the Secretary through the Service under this subsection to an indigent person who would not be eligible for such health services but for the provisions of paragraph (1) only if an agreement has been entered into with a State or local government under which the State or local government agrees to reimburse the Service for the expenses incurred by the Service in providing such health services to such indigent person.

''(3) SERVICE AREAS.—

''(A) SERVICE TO ONLY ONE TRIBE.—In the case of a service area which serves only one Indian tribe, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which the governing body of the Indian tribe revokes its concurrence to the provision of such health services.

''(B) MULTI-TRIBAL AREAS.—In the case of a multi-tribal service area, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which at least 51 percent of the number of Indian tribes in the service area revoke their concurrence to the provision of such health services.

''(c) PURPOSE FOR PROVIDING SERVICES.—The Service may provide health services under this subsection to individuals who are not eligible for health services provided by the Service under any other subsection of this section or under any other provision of law in order to—

''(1) achieve stability in a medical emergency;

''(2) prevent the spread of a communicable disease or otherwise deal with a public health hazard;

''(3) provide care to non-Indian women pregnant with an eligible Indian's child for the duration of the pregnancy through post partum; or

''(4) provide care to immediate family members of an eligible person if such care is directly related to the treatment of the eligible person.

''(d) HOSPITAL PRIVILEGES.—Hospital privileges in health facilities operated and maintained by the Service or operated under a contract entered into under the Indian Self-Determination Education Assistance Act may be extended to non-Service health care practitioners who provide services to persons described in subsection (a) or (b). Such non-Service health care practitioners may be regarded as employees of the Federal Government for purposes of section 1346(b) and chapter 171 of title 28, United States Code (relating to Federal tort claims) only with respect to acts or omissions which occur in the course of providing services to eligible persons as a part of the conditions under which such hospital privileges are extended.

''(e) DEFINITION.—In this section, the term 'eligible Indian' means any Indian who is eligible for health services provided by the Service without regard to the provisions of this section.

''SEC. 808. REALLOCATION OF BASE RESOURCES.

''(a) REQUIREMENT OF REPORT.—Notwithstanding any other provision of law, any allocation of Service funds for a fiscal year that reduces by 5 percent or more from the previous fiscal year the funding for any recurring program, project, or activity of a service unit may be implemented only after the Secretary has submitted to the President, for inclusion in the report required to be transmitted to the Congress under section 801, a report on the proposed change in allocation of funding, including the reasons for the change and its likely effects.

''(b) NONAPPLICATION OF SECTION.—Subsection (a) shall not apply if the total amount appropriated to the Service for a fiscal year is less than the amount appropriated to the Service for previous fiscal year.

''SEC. 809. RESULTS OF DEMONSTRATION PROJECTS.

''The Secretary shall provide for the dissemination to Indian tribes of the findings and results of demonstration projects conducted under this Act.

''SEC. 810. PROVISION OF SERVICES IN MONTANA.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall provide services and benefits for Indians in Montana in a manner consistent with the decision of the United States Court of Appeals for the Ninth Circuit in McNabb for McNabb v. Bowen, 829 F.2d 787 (9th Cr. 1987).

''(b) RULE OF CONSTRUCTION.—The provisions of subsection (a) shall not be construed to be an expression of the sense of the Congress on the application of the decision described in subsection (a) with respect to the provision of services or benefits for Indians living in any State other than Montana.

''SEC. 811. MORATORIUM.

''During the period of the moratorium imposed by Public Law 100–446 on implementation of the final rule published in the Federal Register on September 16, 1987, by the Health Resources and Services Administration, relating to eligibility for the health care services of the Service, the Service shall provide services pursuant to the criteria for eligibility for such services that were in effect on September 15, 1987, subject to the provisions of sections 806 and 807 until such time as new criteria governing eligibility for services are developed in accordance with section 802.

''SEC. 812. TRIBAL EMPLOYMENT.

''For purposes of section 2(2) of the Act of July 5, 1935 (49 Stat. 450, Chapter 372), an Indian tribe or tribal organization carrying out a funding agreement under the Self-Determination and Education Assistance Act shall not be considered an employer.

''SEC. 813. PRIME VENDOR.

''For purposes of section 4 of Public Law 102–585 (38 U.S.C. 812) Indian tribes and tribal organizations carrying out a grant, cooperative agreement, or funding agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall be deemed to be an executive agency and part of the Service in the and, as such, may act as an ordering agent of the Service and the employees of the tribe or tribal organization may order supplies on behalf thereof on the same basis as employees of the Service.

''SEC. 814. NATIONAL BI-PARTISAN COMMISSION ON INDIAN HEALTH CARE ENTITLEMENT.

''(a) ESTABLISHMENT.—There is hereby established the National Bi-Partisan Indian Health Care Entitlement Commission (referred to in this Act as the 'Commission').

''(b) MEMBERSHIP.—The Commission shall be composed of 25 members, to be appointed as follows:

''(1) Ten members of Congress, of which—

''(A) three members shall be from the House of Representatives and shall be appointed by the majority leader;

''(B) three members shall be from the House of Representatives and shall be appointed by the minority leader;

''(C) two members shall be from the Senate and shall be appointed by the majority leader; and

''(D) two members shall be from the Senate and shall be appointed by the minority leader;

who shall each be members of the committees of Congress that consider legislation affecting the provision of health care to Indians and who shall elect the chairperson and vice-chairperson of the Commission.

''(2) Twelve individuals to be appointed by the members of the Commission appointed under paragraph (1), of which at least 1 shall be from each service area as currently designated by the Director of the Service, to be chosen from among 3 nominees from each such area as selected by the Indian tribes within the area, with due regard being given to the experience and expertise of the nominees in the provision of health care to Indians and with due regard being given to a reasonable representation on the Commission of members who are familiar with various health care delivery modes and who represent tribes of various size populations.

''(3) Three individuals shall be appointed by the Director of the Service from among individual who are knowledgeable about the provision of health care to Indians, at least 1 of whom shall be appointed from among 3 nominees from each program that is funded in whole or in part by the Service primarily or exclusively for the benefit of urban Indians.

All those persons appointed under paragraphs (2) and (3) shall be members of Federally recognized Indian Tribes.

''(c) TERMS.—

''(1) IN GENERAL.—Members of the Commission shall serve for the life of the Commission.

''(2) APPOINTMENT OF MEMBERS.—Members of the Commission shall be appointed under subsection (b)(1) not later than 90 days after the date of enactment of this Act, and the remaining members of the Commission shall be appointed not later than 60 days after the date on which the members are appointed under such subsection.

''(3) VACANCY.—A vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made.

''(d) DUTIES OF THE COMMISSION.—The Commission shall carry out the following duties and functions:

''(1) Review and analyze the recommendations of the report of the study committee established under paragraph (3) to the Commission.

''(2) Make recommendations to Congress for providing health services for Indian persons as an entitlement, giving due regard to the effects of such a programs on existing health care delivery systems for Indian persons and the effect of such programs on the sovereign status of Indian Tribes;

''(3) Establish a study committee to be composed of those members of the Commission appointed by the Director of the Service and at least 4 additional members of Congress from among the members of the Commission which shall—

''(A) to the extent necessary to carry out its duties, collect and compile data necessary to understand the extent of Indian needs with regard to the provision of health services, regardless of the location of Indians, including holding hearings and soliciting the views of Indians, Indian tribes, tribal organizations and urban Indian organizations, and which may include authorizing and funding feasibility studies of various models for providing and funding health services for all Indian beneficiaries including those who live outside of a reservation, temporarily or permanently;

''(B) make recommendations to the Commission for legislation that will provide for the delivery of health services for Indians as an entitlement, which shall, at a minimum, address issues of eligibility, benefits to be provided, including recommendations regarding from whom such health services are to be provide,d and the cost, including mechanisms for funding of the health services to be provided;

''(C) determine the effect of the enactment of such recommendations on the existing system of the delivery of health services for Indians;

''(D) determine the effect of a health services entitlement program for Indian persons on the sovereign status of Indian tribes;

''(E) not later than 12 months after the appointment of all members of the Commission, make a written report of its findings and recommendations to the Commission, which report shall include a statement of the minority and majority position of the committee and which shall be disseminated, at a minimum, to each Federally recognized Indian tribe, tribal organization and urban Indian organization for comment to the Commission; and

''(F) report regularly to the full Commission regarding the findings and recommendations developed by the committee in the course of carrying out its duties under this section.

''(4) Not later than 18 months after the date of appointment of all members of the Commission, submit a written report to Congress containing a recommendation of policies and legislation to implement a policy that would establish a health care system for Indians based on the delivery of health services as an entitlement, together with a determination of the implications of such an entitlement system on existing health care delivery systems for Indians and on the sovereign status of Indian tribes.

''(e) ADMINISTRATIVE PROVISIONS.—

''(1) COMPENSATION AND EXPENSES.—

''(A) CONGRESSIONAL MEMBERS.—Each member of the Commission appointed under subsection (b)(1) shall receive no additional pay, allowances, or benefits by reason of their service on the Commission and shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

''(B) OTHER MEMBERS.—The members of the Commission appointed under paragraphs (2) and (3) of subsection (b), while serving on the business of the Commission (including travel time) shall be entitled to receive compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, and while so serving away from home and the member's regular place of business, be allowed travel expenses, as authorized by the chairperson of the Commission. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

''(2) MEETINGS AND QUORUM.—

''(A) MEETINGS.—The Commission shall meet at the call of the chairperson.

''(B) QUORUM.—A quorum of the Commission shall consist of not less than 15 members, of which not less than 6 of such members shall be appointees under subsection (b)(1) and not less than 9 of such members shall be Indians.

''(3) DIRECTOR AND STAFF.—

''(A) EXECUTIVE DIRECTOR.—The members of the Commission shall appoint an executive director of the Commission. The executive director shall be paid the rate of basic pay equal to that for level V of the Executive Schedule.

''(B) STAFF.—With the approval of the Commission, the executive director may appoint such personnel as the executive director deems appropriate.

''(C) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

''(D) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

''(E) FACILITIES.—The Administrator of the General Services Administration shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

''(f) POWERS.—

''(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties, except that at least 6 regional hearings shall be held in different areas of the United States in which large numbers of Indians are present. Such hearings shall be held to solicit the views of Indians regarding the delivery of health care services to them. To constitute a hearing under this paragraph, at least 5 members of the Commission, including at least 1 member of Congress, must be present. Hearings held by the study committee established under this section may be counted towards the number of regional hearings required by this paragraph.

''(2) STUDIES BY GAO.—Upon request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

''(3) COST ESTIMATES.—

''(A) IN GENERAL.—The Director of the Congressional Budget Office or the Chief Actuary of the Health Care Financing Administration, or both, shall provide to the Commission, upon the request of the Commission, such cost estimates as the Commission determines to be necessary to carry out its duties.

''(B) REIMBURSEMENTS.—The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

''(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any federal Agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties.

Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the federal employee.

''(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal Agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

''(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal Agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

''(7) OBTAINING INFORMATION.—The Commission may secure directly from the any Federal Agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 4, United States Code. Upon request of the chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

''(8) SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

''(9) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $4,000,000 to carry out this section. The amount appropriated under this subsection shall not be deducted from or affect any other appropriation for health care for Indian persons.

''SEC. 815. APPROPRIATIONS; AVAILABILITY.

''Any new spending authority (described in subsection (c)(2)(A) or (B) of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

''SEC. 816. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2013 to carry out this title.''.

TITLE II—CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT

Subtitle A—Medicare

SEC. 201. LIMITATIONS ON CHARGES.

Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) in subparagraph (R), by striking ''and'' at the end;

(2) in subparagraph (S), by striking the period and inserting '', and''; and

(3) by adding at the end the following:

''(T) in the case of hospitals and critical access hospitals which provide inpatient hospital services for which payment may be made under this title, to accept as payment in full for services that are covered under and furnished to an individual eligible for the contract health services program operated by the Indian Health Service, by an Indian tribe or tribal organization, or furnished to an urban Indian eligible for health services purchased by an urban Indian organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), in accordance with such admission practices and such payment methodology and amounts as are prescribed under regulations issued by the Secretary.''.

SEC. 202. QUALIFIED INDIAN HEALTH PROGRAM.

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by inserting after section 1880 the following:

''QUALIFIED INDIAN HEALTH PROGRAM

''SEC. 1880A. (a) DEFINITION OF QUALIFIED INDIAN HEALTH PROGRAM.—In this section:

''(1) IN GENERAL.—The term 'qualified Indian health program' means a health program operated by—

''(A) the Indian Health Service;

''(B) an Indian tribe or tribal organization or an urban Indian organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act) and which is funded in whole or part by the Indian Health Service under the Indian Self Determination and Education Assistance Act; or

''(C) an urban Indian organization (as so defined) and which is funded in whole or in part under title V of the Indian Health Care Improvement Act.

''(2) INCLUDED PROGRAMS AND ENTITIES.—Such term may include 1 or more hospital, nursing home, home health program, clinic, ambulance service or other health program that provides a service for which payments may be made under this title and which is covered in the cost report submitted under this title or title XIX for the qualified Indian health program.

''(b) ELIGIBILITY FOR PAYMENTS.—A qualified Indian health program shall be eligible for payments under this title, notwithstanding sections 1814(c) and 1835(d), if and for so long as the program meets all the conditions and requirements set forth in this section.

''(c) DETERMINATION OF PAYMENTS.—

''(1) IN GENERAL.—Notwithstanding any other provision in the law, a qualified Indian health program shall be entitled to receive payment based on an all-inclusive rate which shall be calculated to provide full cost recovery for the cost of furnishing services provided under this section.

''(2) DEFINITION OF FULL COST RECOVERY.—

''(A) IN GENERAL.—Subject to subparagraph (B), in this section, the term 'full cost recovery' means the sum of—

''(i) the direct costs, which are reasonable, adequate and related to the cost of furnishing such services, taking into account the unique nature, location, and service population of the qualified Indian health program, and which shall include direct program, administrative, and overhead costs, without regard to the customary or other charge or any fee schedule that would otherwise be applicable; and

''(ii) indirect costs which, in the case of a qualified Indian health program—

''(I) for which an indirect cost rate (as that term is defined in section 4(g) of the Indian Self-Determination and Education Assistance Act) has been established, shall be not less than an amount determined on the basis of the indirect cost rate; or

''(II) for which no such rate has been established, shall be not less than the administrative costs specifically associated with the delivery of the services being provided.

''(B) LIMITATION.—Notwithstanding any other provision of law, the amount determined to be payable as full cost recovery may not be reduced for co-insurance, co-payments, or deductibles when the service was provided to an Indian entitled under Federal law to receive the service from the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization or because of any limitations on payment provided for in any managed care plan.

''(3) OUTSTATIONING COSTS.—In addition to full cost recovery, a qualified Indian health program shall be entitled to reasonable outstationing costs, which shall include all administrative costs associated with outreach and acceptance of eligibility applications for any Federal or State health program including the programs established under this title, title XIX, and XXI.

''(4) DETERMINATION OF ALL-INCLUSIVE ENCOUNTER OR PER DIEM AMOUNT.—

''(A) IN GENERAL.—Costs identified for services addressed in a cost report submitted by a qualified Indian health program shall be used to determine an all-inclusive encounter or per diem payment amount for such services.

''(B) NO SINGLE REPORT REQUIREMENT.—Not all qualified Indian health programs provided or administered by the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization need be combined into a single cost report.

''(C) PAYMENT FOR ITEMS NOT COVERED BY A COST REPORT.—A full cost recovery payment for services not covered by a cost report shall be made on a fee-for-service, encounter, or per diem basis.

''(5) OPTIONAL DETERMINATION.—The full cost recovery rate provided for in paragraphs (1) through (3) may be determined, at the election of the qualified Indian health program, by the Health Care Financing Administration or by the State agency responsible for administering the State plan under title XIX and shall be valid for reimbursements made under this title, title XIX, and title XXI. The costs described in paragraph (2)(A) shall be calculated under whatever methodology yields the greatest aggregate payment for the cost reporting period, provided that such methodology shall be adjusted to include adjustments to such payment to take into account for those qualified Indian health programs that include hospitals—

''(A) a significant decrease in discharges;

''(B) costs for graduate medical education programs;

''(C) additional payment as a disproportionate share hospital with a payment adjustment factor of 10; and

''(D) payment for outlier cases.

''(6) ELECTION OF PAYMENT.—A qualified Indian health program may elect to receive payment for services provided under this section—

''(A) on the full cost recovery basis provided in paragraphs (1) through (5);

''(B) on the basis of the inpatient or outpatient encounter rates established for Indian Health Service facilities and published annually in the Federal Register;

''(C) on the same basis as other providers are reimbursed under this title, provided that the amounts determined under paragraph (c)(2)(B) shall be added to any such amount;

''(D) on the basis of any other rate or methodology applicable to the Indian Health Service or an Indian Tribe or tribal organization; or

''(E) on the basis of any rate or methodology negotiated with the agency responsible for making payment.

''(d) ELECTION OF REIMBURSEMENT FOR OTHER SERVICES.—

''(1) IN GENERAL.—A qualified Indian health program may elect to be reimbursed for any service the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization may be reimbursed for under section 1880 and section 1911.

''(2) OPTION TO INCLUDE ADDITIONAL SERVICES.—An election under paragraph (1) may include, at the election of the qualified Indian health program—

''(A) any service when furnished by an employee of the qualified Indian health program who is licensed or certified to perform such a service to the same extent that such service would be reimbursable if performed by a physician and any service or supplies furnished as incident to a physician's service as would otherwise be covered if furnished by a physician or as an incident to a physician's service;

''(B) screening, diagnostic, and therapeutic outpatient services including part-time or intermittent screening, diagnostic, and therapeutic skilled nursing care and related medical supplies (other than drugs and biologicals), furnished by an employee of the qualified Indian health program who is licensed or certified to perform such a service for an individual in the individual's home or in a community health setting under a written plan of treatment established and periodically reviewed by a physician, when furnished to an individual as an outpatient of a qualified Indian health program;

''(C) preventive primary health services as described under section 330 of the Public Health Service Act, when provided by an employee of the qualified Indian health program who is licensed or certified to perform such a service, regardless of the location in which the service is provided;

''(D) with respect to services for children, all services specified as part of the State plan under title XIX, the State child health plan under title XXI, and early and periodic screening, diagnostic, and treatment services as described in section 1905(r);

''(E) influenza and pneumococcal immunizations;

''(F) other immunizations for prevention of communicable diseases when targeted; and

''(G) the cost of transportation for providers or patients necessary to facilitate access for patients.''.

Subtitle B—Medicaid

SEC. 211. STATE CONSULTATION WITH INDIAN HEALTH PROGRAMS.

Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (64), by striking ''and'' at the end:

(2) in paragraph (65), by striking the period and inserting ''; and''; and

(3) by inserting after paragraph (65), the following:

''(66) if the Indian Health Service operates or funds health programs in the State or if there are Indian tribes or tribal organizations or urban Indian organizations (as those terms are defined in Section 4 of the Indian Health Care Improvement Act) present in the State, provide for meaningful consultation with such entities prior to the submission of, and as a precondition of approval of, any proposed amendment, waiver, demonstration project, or other request that would have the effect of changing any aspect of the State's administration of the State plan under this title, so long as—

''(A) the term 'meaningful consultation' is defined through the negotiated rulemaking process provided for under section 802 of the Indian Health Care Improvement Act; and

''(B) such consultation is carried out in collaboration with the Indian Medicaid Advisory Committee established under section 415(a)(3) of that Act.''.

SEC. 212. FMAP FOR SERVICES PROVIDED BY INDIAN HEALTH PROGRAMS.

The third sentence of Section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended to read as follows:

''Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 per cent with respect to amounts expended as medical assistance for services which are received through the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as defined in section 4 of the Indian Health Care Improvement Act) under section 1911, whether directly, by referral, or under contracts or other arrangements between the Indian Health Service, Indian tribe or tribal organization, or urban Indian organization and another health provider.''.

SEC. 213. INDIAN HEALTH SERVICE PROGRAMS.

Section 1911 of the Social Security Act (42 U.S.C. 1396j) is amended to read as follows:

''INDIAN HEALTH SERVICE PROGRAMS

''SEC. 1911. (a) IN GENERAL.—The Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall be eligible for reimbursement for medical assistance provided under a State plan by such entities if and for so long as the Service, Indian tribe or tribal organization, or urban Indian organization provides services or provider types of a type otherwise covered under the State plan and meets the conditions and requirements which are applicable generally to the service for which it seeks reimbursement under this title and for services provided by a qualified Indian health program under section 1880A.

''(b) PERIOD FOR BILLING.—Notwithstanding subsection (a), if the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization which provides services of a type otherwise covered under the State plan does not meet all of the conditions and requirements of this title which are applicable generally to such services submits to the Secretary within 6 months after the date on which such reimbursement is first sought an acceptable plan for achieving compliance with such conditions and requirements, the Service, an Indian tribe or tribal organization, or urban Indian organization shall be deemed to meet such conditions and requirements (and to be eligible for reimbursement under this title), without regard to the extent of actual compliance with such conditions and requirements during the first 12 months after the month in which such plan is submitted.

''(c) AUTHORITY TO ENTER INTO AGREEMENTS.—The Secretary may enter into agreements with the State agency for the purpose of reimbursing such agency for health care and services provided by the Indian Health Service, Indian tribes or tribal organizations, or urban Indian organizations, directly, through referral, or under contracts or other arrangements between the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization and another health care provider to Indians who are eligible for medical assistance under the State plan.''.

Subtitle C—State Children's Health Insurance Program

SEC. 221. ENHANCED FMAP FOR STATE CHILDREN'S HEALTH INSURANCE PROGRAM.

(a) IN GENERAL.—Section 2105(b) of the Social Security Act (42 U.S.C. 1397ee(b)) is amended—

(1) by striking ''For purposes'' and inserting the following:

''(1) IN GENERAL.—Subject to paragraph (2), for purposes''; and

(2) by adding at the end the following:

''(2) SERVICES PROVIDED BY INDIAN PROGRAMS.—Without regard to which option a State chooses under section 2101(a), the 'enhanced FMAP' for a State for a fiscal year shall be 100 per cent with respect to expenditures for child health assistance for services provided through a health program operated by the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act).''.

(b) CONFORMING AMENDMENT.—Section 2105(c)(6)(B) of such Act (42 U.S.C. 1397ee(c)(6)(B)) is amended by inserting ''an Indian tribe or tribal organization, or an urban Indian organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act),'' after ''Service,''.

SEC. 222. DIRECT FUNDING OF STATE CHILDREN'S HEALTH INSURANCE PROGRAM.

Title XXI of Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

''SEC. 2111. DIRECT FUNDING OF INDIAN HEALTH PROGRAMS.

''(a) IN GENERAL.—The Secretary may enter into agreements directly with the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act) for such entities to provide child health assistance to Indians who reside in a service area on or near an Indian reservation. Such agreements may provide for funding under a block grant or such other mechanism as is agreed upon by the Secretary and the Indian Health Service, Indian tribe or tribal organization, or urban Indian organization. Such agreements may not be made contingent on the approval of the State in which the Indians to be served reside.

''(b) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, a State may transfer funds to which it is, or would otherwise be, entitled to under this title to the Indian Health Service, an Indian tribe or tribal organization or an urban Indian organization—

''(1) to be administered by such entity to achieve the purposes and objectives of this title under an agreement between the State and the entity; or

''(2) under an agreement entered into under subsection (a) between the entity and the Secretary.''.

Subtitle D—Authorization of Appropriations

SEC. 231. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2002 through 2013 to carry out this title and the amendments by this title.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. REPEALS.

The following are repealed:

(1) Section 506 of Public Law 101–630 (25 U.S.C. 1653 note) is repealed.

(2) Section 712 of the Indian Health Care Amendments of 1988 is repealed.

SEC. 302. SEVERABILITY PROVISIONS.

If any provision of this Act, any amendment made by the Act, or the application of such provision or amendment to any person or circumstances is held to be invalid, the remainder of this Act, the remaining amendments made by this Act, and the application

of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

SEC. 303. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect on October 1, 2001.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 213. A bill to amend the National Trails System Act to update the feasibility and suitability studies of 4 national historic trails and provide for possible additions to such trails; to the Committee on Energy and Natural Resources.

Mr. HATCH. Mr. President, I rise today to introduce an amendment to the National Trails System Act which would update the feasibility and suitability studies of four national historic trails and allow possible additions to them. The trails in question are the Oregon, the Mormon, the Pony Express and the California National Historic Trails.

In 1978, the Oregon and Mormon trails were established by the National Trails System Act. At that time the language of the bill defined these trails as ''point to point,'' limiting them to one beginning point and one destination. The Mormon Pioneer National Historic Trail at that time was defined as the route Brigham Young took in 1846 through Iowa and then to the Salt Lake Valley in 1847. The Oregon Trail was defined narrowly as the route taken by settlers from Independence, Missouri, to Oregon City from 1841 to 1848. It, too, was limited to a single trail with only three variants.

Later, in 1992, Congress passed an amendment for the establishment of the California and Pony Express National Historic Trails. This amendment broadened the possibility of trail variants for the California Trail and provided a more accurate depiction of the original trail. However, the legislation I am introducing today will provide additional authority for variations to these trails.

To those of us in the West, these trails are the highways of our history. With this legislation, I hope to capture the stories made along the side roads, as well. In many cases, our most interesting and telling history was made along the variations of the main trails. Since the enactment of the National Trails System Act in 1978, there has been a great deal of support to broaden the Act to include these side roads to history.

Not every pioneer company embarked on their journey from Omaha, Nebraska or Independence, Missouri. Tens of thousands of settlers began from other starting points. These trail variations and alternate routes show the ingenuity and adaptability of the poineers as they were forced to contend with inclement weather, lack of water, difficult terrain, and hostile Native American tribes. The variant routes taken by the pioneers tell important stories that would otherwise slip through the cracks under a strict interpretation of the National Trails System Act.

The Act requires that comprehensive management and use plans be prepared for all historic trails. In 1981, such plans were completed for the Mormon and Oregon trails. Since that time, however, endless hours of research by the Park Service and trails organizations have produced a more complete picture of the westward expansion. The National Park Service has determined, however, that legislation is required to update the trails with this newfound history.

That is why I am introducing this legislation today. This bill would authorize the study of further important additions to the California, Mormon Pioneer, Oregon, and Pony Express National Historic Trails and allow for a more complete story to be told of our history in the West.

I thank the Senate for the opportunity to address this issue today, and I urge my colleagues to support this legislation.

By Mr. MCCAIN (for himself, Mr. INOUYE, Mr. CONRAD, Mr. DASCHLE, and Mr. CAMPBELL):

S. 214. A bill to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes; to Committee on Indian Affairs.

Mr. MCCAIN. Mr. President, I rise to introduce legislation to designate the Director of the Indian Health Service as an Assistant Secretary for Indian Health within the Department of Health and Human Services. My colleagues, Senators INOUYE, CONRAD, DASCHLE and CAMPBELL are joining me in this effort as original co-sponsors. I am pleased to note that Congressman Nethercutt from Washington will introduce companion legislation on the House side.

The purpose of this legislation is simple. It will redesignate the current Director of the Indian Health Service, IHS, as a new Assistant Secretary within the Department of Health and Human Services to be responsible for Indian health policy and budgetary matters.

As the primary health care delivery system, the Indian Health Service is the principal advocate for Indian health care needs, both on the reservation level and for urban populations. More than 1.5 million Indian people are served every year by the IHS. At its current capacity, the IHS estimates that it can only meet about 60 percent of tribal health care needs. The IHS will continue to be challenged by a growing Indian population as well as an increasing disparity between the health status of Indian people as compared to other Americans. Thousands of Indian people continue to suffer from the worst imaginable health care conditions in Indian country—from diabetes to cancer to infant mortality. In nearly every category, the health status of Native Americans falls far below the national standard.

The purpose of this bill is to respond to the desire by Indian people for a stronger leadership and policy role within the primary health care agency, the Department of Health and Human Services. The Assistant Secretary for Indian Health will ensure that critical policy and budgetary decisions will be made with the full involvement and consultation of not only the Indian Health Service, but also the direct involvement of the Tribal governments.

This legislation is long overdue in bringing focus and national attention to the health care status of Indian people and fulfilling the federal trust responsibility toward Indian tribes. Implementation of this bill is intended to support the long-standing policies of Indian self-determination and tribal self-governance and assist Indian tribes who are making positive strides in providing direct health care to their own communities.

Tribal communities are in dire need of a senior policy official who is knowledgeable about the programs administered by the IHS and who can provide the leadership for the health care needs of American Indians and Alaska Natives. We continue to pursue passage of this legislation as many believe that the priority of Indian health issues within the Department should be raised to the highest levels within our federal government.

I look forward to working with my colleagues on both sides of the aisle and the new Administration to ensure prompt passage of this legislation. I ask unanimous consent that the full text of this bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OFFICE OF ASSISTANT SECRETARY FOR INDIAN HEALTH.

(a) ESTABLISHMENT.—There is established within the Department of Health and Human Services the Office of the Assistant Secretary for Indian Health in order to, in a manner consistent with the government-to-government relationship between the United States and Indian tribes—

(1) facilitate advocacy for the development of appropriate Indian health policy; and

(2) promote consultation on matters related to Indian health.

(b) ASSISTANT SECRETARY FOR INDIAN HEALTH.—In addition to the functions performed on the date of enactment of this Act by the Director of the Indian Health Service, the Assistant Secretary for Indian Health

shall perform such functions as the Secretary of Health and Human Services (referred to in this section as the ''Secretary'') may designate. The Assistant Secretary for Indian Health shall—

(1) report directly to the Secretary concerning all policy- and budget-related matters affecting Indian health;

(2) collaborate with the Assistant Secretary for Health concerning appropriate matters of Indian health that affect the agencies of the Public Health Service;

(3) advise each Assistant Secretary of the Department of Health and Human Services concerning matters of Indian health with respect to which that Assistant Secretary has authority and responsibility;

(4) advise the heads of other agencies and programs of the Department of Health and Human Services concerning matters of Indian health with respect to which those heads have authority and responsibility; and

(5) coordinate the activities of the Department of Health and Human Services concerning matters of Indian health.

(c) REFERENCES.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Director of the Indian Health Service shall be deemed to refer to the Assistant Secretary for Indian Health.

(d) RATE OF PAY.—

(1) POSITIONS AT LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(A) by striking the following:

''Assistant Secretaries of Health and Human Services (6).''; and

(B) by inserting the following:

''Assistant Secretaries of Health and Human Services (7).''.

(2) POSITIONS AT LEVEL V.—Section 5316 of title 5, United States Code, is amended by striking the following:

''Director, Indian Health Service, Department of Health and Human Services.''.

(e) DUTIES OF ASSISTANT SECRETARY FOR INDIAN HEALTH.—Section 601(a) of the Indian Health Care Improvement Act (25 U.S.C. 1661(a)) is amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) in the second sentence of paragraph (1), as so designated, by striking ''a Director,'' and inserting ''the Assistant Secretary for Indian Health,''; and

(3) by striking the third sentence of paragraph (1) and all that follows through the end of the subsection and inserting the following: ''The Assistant Secretary for Indian Health shall carry out the duties specified in paragraph (2).

''(2) The Assistant Secretary for Indian Health shall—

''(A) report directly to the Secretary concerning all policy- and budget-related matters affecting Indian health;

''(B) collaborate with the Assistant Secretary for Health concerning appropriate matters of Indian health that affect the agencies of the Public Health Service;

''(C) advise each Assistant Secretary of the Department of Health and Human Services concerning matters of Indian health with respect to which that Assistant Secretary has authority and responsibility;

''(D) advise the heads of other agencies and programs of the Department of Health and Human Services concerning matters of Indian health with respect to which those heads have authority and responsibility; and

''(E) coordinate the activities of the Department of Health and Human Services concerning matters of Indian health.''.

(f) CONTINUED SERVICE BY INCUMBENT.—The individual serving in the position of Director of the Indian Health Service on the date preceding the date of enactment of this Act may serve as Assistant Secretary for Indian Health, at the pleasure of the President after the date of enactment of this Act.

(g) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO INDIAN HEALTH CARE IMPROVEMENT ACT.—The Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended—

(A) in section 601—

(i) in subsection (c), by striking ''Director of the Indian Health Service'' both places it appears and inserting ''Assistant Secretary for Indian Health''; and

(ii) in subsection (d), by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''; and

(B) in section 816(c)(1), by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''.

(2) AMENDMENTS TO OTHER PROVISIONS OF LAW.—The following provisions are each amended by striking ''Director of the Indian Health Service'' each place it appears and inserting ''Assistant Secretary for Indian Health'':

(A) Section 203(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 761b(a)(1)).

(B) Subsections (b) and (e) of section 518 of the Federal Water Pollution Control Act (33 U.S.C. 1377 (b) and (e)).

(C) Section 803B(d)(1) of the Native American Programs Act of 1974 (42 U.S.C. 2991b–2(d)(1)).

By Ms. STABENOW:

S. 215. A bill to amend the Federal Food, Drug, and Cosmetic Act to permit importation in personal baggage and by mail of certain covered products for personal use from certain foreign countries and to correct impediments in implementation of the Medicine Equity and Drug Safety Act of 2000; to the Committee on Health, Education, Labor, and Pensions.

Ms. STABENOW. Mr. President, today I rise to introduce my first bill in the Senate, the Medication Equity and Drug Savings Act, or the MEDS Act.

On January 22, a little over a week ago, I had the privilege of addressing my colleagues in my first speech on the Senate floor. The topic of the speech was health care, specifically the need to pass a strong Patients' Bill of Rights. I pledged my commitment to making health care a priority during my tenure in this esteemed body.

Today, I am pleased to share with my colleagues that I am taking the next step in keeping my promise by introducing a bill that addresses another priority health care issue: the price of prescription drugs. We all know that providing prescription drugs for seniors has become a very important issue for the American public. In fact, this was a key issue in many campaigns throughout the country, including my own.

On a fundamental level, I believe everyone should have access to affordable prescription drugs, especially senior citizens enrolled in Medicare and the disabled. It is an outrage that not only must those seniors, who rely solely on Medicare for their health insurance, pay for all of their medications out of their own pockets, but that in many instances they pay more for the same drug than their counterparts with other insurance.

So we have situations where those without insurance, and most often this falls on our seniors—but anyone without insurance is most often walking into the pharmacy and paying more. We did a study in my State that showed, on average, they paid twice as much as someone with insurance for the very same medications.

I have conducted several prescription drug price studies in Michigan, and I have learned that, in fact, there is a genuine problem that touches the lives of so many people whom I represent. My concerns have been confirmed by literally thousands of letters and e-mails and phone calls from seniors and families who cannot afford to buy their medications.

I have been saddened by the sheer number of seniors who confided in me that the cost of their drugs is so high that they are often forced to give up their meals or are not able to heat their homes. In Michigan that can be very serious in the wintertime. This is in order to buy their medications.

These are not new stories. I know my colleagues have heard these stories as well, but they are real. They are not just stories. They are affecting people today. As we speak, there are seniors somewhere deciding whether or not they are going to skip their meals to get their medicine, or whether they are going to eat and not have the medications they need.

I also know from hearing from doctors in my district who are worried about seniors, who decided to do their own self-regulation. They cannot afford all their pills, so they will skip a couple of pills, or they will take them every other day, or cut them in half. Oftentimes they have been placed in serious jeopardy as to their health because they have not been able to afford their medications and they have taken them inappropriately.

The bottom line is that Medicare should include a defined, voluntary prescription drug benefit to help cover the costs of prescription drugs for seniors and the disabled. I am committed to working with my colleagues across the aisle, and the administration, to finish what we started last year and create this new component of Medicare that is absolutely critical. Without it, we are not fulfilling the promise of universal health care for those over the age of 65, or the disabled. If we do not cover medications, we are not providing health care in the truest sense for those individuals.

In fact, one of the very first bills I cosponsored this year was S. 10, a bill that would create this important benefit in the Medicare program. I am ready to work with my colleagues to

make sure that we do whatever it takes to update Medicare and create a defined benefit that will make such an incredible difference in the lives of seniors and their families in my great State of Michigan and all across the country. As we work on this complex issue, there are other approaches we can take in a more immediate sense to cut the costs of prescription drugs.

Last year, Congress passed and the President signed into law an important new Act that would permit U.S. manufactured, FDA approved drugs to be reimported back into the United States by wholesalers. I firmly believe that implementing this Act could substantially reduce the cost of drugs, not just for seniors, but for everyone.

Many of my colleagues may remember that during my campaign I organized several bus trips to Canada. As you know, Canada is just a short trip over a bridge or through a tunnel for many residents of Michigan. What I discovered on my bus trips was almost unbelievable.

With just a short drive across the border, U.S. citizens can substantially reduce the cost of their medications by purchasing them in Canadian pharmacies. The difference in price for medications was absolutely shocking. A price study I conducted, comparing the price of several drugs purchased in the U.S. to the Canadian prices, conformed what we saw happening on our bus trips—the price of the same drug purchased in Canada is substantially lower than the average U.S. price.

I have brought a chart to the floor to show my colleagues some of the incredible differences between the average price in Canada and the average price in Michigan. I would like to point those out today.

Zocor, a drug to reduce cholesterol, costs $109.73 in Michigan for 50, 5 milligram tablets. The same drug costs only $46.17 in Canada. That is a 138 percent difference in price.

Prilosec, a drug to treat ulcers $115.37 in Michigan for 20, 20 milligram capsules. The same drug costs only $55.10 in Canada. That is a 109 percent difference in price.

Procardia XL, a drug to treat heart problems, costs $133.36 for 100, 30 milligram tablets in Michigan. The same drug costs only $74.25 in Canada. That is an 80 percent difference in price.

Norvasc, a drug to treat high blood pressure, costs $116.79 for 90, 5 milligram tablets. The same drug costs only $89.91 in Canada. That is a 30 percent difference in price.

Tamoxifen, a drug to treat breast cancer, costs $136.50 in Michigan for a one month supply. The same drug costs only $15.92 in Canada. That is an 88 percent savings in price.

Zoloft, a drug to treat depression, costs $220.64 for 100, 50 milligram tablets in Michigan. The same drug costs $129.05 in Canada. That is a 30 percent difference in price.

These are all drugs that have been manufactured in the United States and have met all FDA manufacturing, safety and purity requirements. Furthermore, because these are U.S. drugs, the companies developing and manufacturing them have all benefited from substantial assistance from the U.S. government, including NIH supported research and the Research and Development tax credit. Furthermore, a great deal of this research is conducted in state universities.

I believe that U.S. citizens should have access to these U.S. drugs that are sold at lower prices in other countries. Competition is key to ensuring prices that consumers are willing to pay. Keeping the Canadian border, as well as other borders, closed is an obstacle to competition and is serving to maintain artificially high prices for drugs in the United States. I believe that permitting U.S. wholesalers, such as pharmacies, to bring lower priced drugs back into this country could reduce the price of drugs for every American.

As my colleagues know, the Secretary of Health and Human Services was given broad discretion in implementing the wholesale reimportation provision of the Act. The former Secretary expressed concerns that the provision may not provide cost savings and could pose risks to the public health and opted not to promulgate rules. I understand that my colleagues are urging the new Secretary to reconsider this decision and to begin the implementation process. I am hopeful this may happen and would like to work with my colleagues to forward this effort.

Nonetheless, I recognize that there are some concerns with the law enacted last year. My bill addresses these concerns by correcting these impediments that may delay the Secretary from promulgating regulations and permitting reimportation. Furthermore, my bill directs the Secretary to dispense with the delay and instructs him to begin the rulemaking process within 30 days of enactment of the bill.

The first of the concerns about wholesale reimportation addressed by my bill is the sunset provision. My bill would lift the 5 year sunset imposed in the Act. Critics argued that sunsetting the provision would be a disincentive for distributors to develop ways to comply with the reimportation requirements when there was the possibility that reimportation could be prohibited again in the near future.

Careful thought was put into the requirements to ensure consumers would be protected. I believe reimporters should be given every opportunity to meet these requirement and that removing the sunset will give these distributors what they need.

Further, I believe consumers should always have access to U.S. manufactured drugs as long as they comply with FDA safety requirements and there is no need for a sunset. If Congress or the administration identifies safety concerns in the future, they should be addressed by revising the reimportation safety requirements, not sunsetting the entire provision of the law.

The act also did not specify that reimorters could use the manufacturers' FDA-approved labels. These labels are required by law if the products are to be sold in the United States. My bill would make those labels available to the reimporters from the manufacturers for a small fee.

Finally, while the act prohibited manufacturers from entering into agreements with distributors that would interfere with reimportation of drugs, critics argue this provision was not strong enough to work. My legislation tightens up this section by prohibiting manufacturers from discriminating against wholesalers simply because they intend to reimport the product.

The bill also has stronger language prohibiting price fixing. Wholesale reimportation of prescription drugs is only half the story. While I think it is critical that wholesalers be permitted to bring U.S.-manufactured drugs back into the country to reduce the price for consumers, I also believe individuals should be able to cross the border and purchase medication for themselves.

The act we passed last year did not change the current law which prohibits individuals from bringing medications across the border for their own use. That is why my bill also makes personal reimportation legal. I believe individuals should be able to cross the border and purchase prescription drugs at a lower price for their own use.

The FDA currently has an enforcement policy that permits individuals who meet specific requirements to bring a 90-day supply of medication with them into the United States from another country, and my legislation would codify the current enforcement policy into law. It requires essentially the same safety precautions currently expected of individuals who bring medication over the border under the FDA's enforcement policy.

The bill also recognizes that some individuals may be too ill to cross the borders themselves and permits them to designate a proxy to bring the medication back for them as long as they provide a letter from their doctor indicating that the trip to another country would endanger their health.

The bill also provides opportunities for individuals to order medication over the Internet—there are other new sites being developed—and other means—hotlines, et cetera—in order to also have prescription drugs delivered by mail.

I am committed to this issue of making prescription drugs more affordable

for everyone. This is a matter of fairness. This bill is a matter of fairness to Americans, young and old, who need to have access to affordable prescription drugs. We as Americans ought not to be underwriting the research and at the same time, after the medications, as great as they are, are developed, manufactured, and sold, have Americans paying on average twice as much as those in other countries. That makes no sense to me.

I am committed to working with my colleagues on both sides of the aisle. I appreciate the time I have been given today. This is a critical issue. I cannot think of a more serious issue affecting particularly older people today than the issue of access to medications. I think it is shameful that we have even one senior who is having to choose today, tomorrow, or next week between eating or taking their medicine. We can fix that. One way is to start with this legislation which opens our borders and allows real competition for the best price for American citizens.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 215

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act maybe cited as the ''Medication Equity and Drug Savings Act''.

SEC. 2. IMPORTATION OF COVERED PRODUCTS FOR PERSONAL USE.

(a) IN GENERAL.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.) is amended by adding at the end the following:

''SEC. 805. IMPORTATION OF COVERED PRODUCTS FOR PERSONAL USE.

''(a) DEFINITIONS.—In this section:

''(1) COVERED PRODUCT.—The term 'covered product' means a prescription drug described in section 503(b)(1).

''(2) FOREIGN COUNTRY.—The term 'foreign country' means—

''(A) Australia, Canada, Israel, Japan, New Zealand, Switzerland, and South Africa; and

''(B) any other country, union, or economic area that the Secretary designates for the purposes of this section, subject to such limitations as the Secretary determines to be appropriate to protect the public health.

''(3) MARKET VALUE.—The term 'market value' means—

''(A) the price paid for a covered product in foreign country; or

''(B) in the case of a gift, the price at which the covered product is being sold in the foreign country from which the covered product is imported.

''(b) IMPORTATION IN PERSON.—

''(1) REGULATIONS.—Notwithstanding subsections (d) and (t) of section 301 and section 801(a), the Secretary shall promulgate regulations permitting individuals to import into the United States from a foreign country, in personal baggage, a covered product that meets—

''(A) the conditions specified in paragraph (2); and

''(B) such additional criteria as the Secretary specifies to ensure the safety of patients in the United States.

''(2) CONDITIONS.—A covered product may be imported under the regulations if—

''(A) the intended use of the covered product is appropriately identified;

''(B) the covered product is not considered to represent a significant health risk (as determined by the Secretary without any consideration given to the cost or availability of such a product in the United States); and

''(C) the individual seeking to import the covered product—

''(i) states in writing that the covered product is for the personal use of the individual;

''(ii) seeks to import a quantity of the covered product appropriate for personal use, such as a 90-day supply;

''(iii) provides the name and address of a health professional licensed to prescribe drugs in the United States that is responsible for treatment with the covered product or provides evidence that the covered product is for the continuation of a treatment begun in a foreign country;

''(iv) provides a detailed description of the covered product being imported, including the name, quantity, and market value of the covered product;

''(v) provides the time when and the place where the covered product is purchased;

''(vi) provides the port of entry through which the covered product is imported;

''(vii) provides the name, address, and telephone number of the individual who is importing the covered product; and

''(viii) provides any other information that the Secretary determines to be necessary, including such information as the Secretary determines to be appropriate to identify the facility in which the covered product was manufactured.

''(3) IMPORTATION BY AN INDIVIDUAL OTHER THAN THE PATIENT.—The regulations shall permit an individual who seeks to import a covered product under this subsection to designate another individual to effectuate the importation if the individual submits to the Secretary a certification by a health professional licensed to prescribe drugs in the United States that travelling to a foreign country to effectuate the importation would pose a significant risk to the health of the individual.

''(4) CONSULTATION.—In promulgating regulations under paragraph (1), the Secretary shall consult with the United States Trade Representative and the Commissioner of Customs.

''(c) IMPORTATION BY MAIL.—

''(1) REGULATIONS.—Notwithstanding subsections (d) and (t) of section 301 and section 801(a), the Secretary shall promulgate regulations permitting individuals to import into the United States by mail a covered product that meets such criteria as the Secretary specifies to ensure the safety of patients in the United States.

''(2) CRITERIA.—In promulgating regulations under paragraph (1), the Secretary shall impose the conditions specified in subsection (b)(2) to the maximum extent practicable.

''(3) CONSULTATION.—In promulgating regulations under paragraph (1), the Secretary shall consult with the United States Trade Representative and the Commissioner of Customs.

''(d) RECORDS.—Any information documenting the importation of a covered product under subsections (b) and (c) shall be gathered and maintained by the Secretary for such period as the Secretary determines to be appropriate.

''(e) STUDY AND REPORT.—

''(1) STUDY.—The Secretary shall conduct a study on the imports permitted under this section, taking into consideration the information received under subsections (b) and (c).

''(2) EVALUATIONS.—In conducting the study, the Secretary shall evaluate—

''(A) the safety and purity of the covered products imported; and

''(B) patent, trade, and other issues that may have an effect on the safety or availability of the covered products.

''(3) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall submit to Congress a report describing the results of the study.

''(f) NO EFFECT ON OTHER AUTHORITY.—Nothing in this section limits the statutory, regulatory, or enforcement authority of the Secretary relating to importation of covered products, other than the importation described in subsections (b) and (c).

''(g) LIMITATION.—Information collected under this section shall be subject to section 522a of title 5, United States Code.''.

(b) CONFORMING AMENDMENT.—Section 801(d)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(d)(1)) is amended by striking ''section 804'' and inserting ''sections 804 and 805''.

SEC. 3. CORRECTION OF IMPEDIMENTS IN IMPLEMENTATION OF MEDICINE EQUITY AND DRUG SAFETY ACT OF 2000.

(a) ACCESS TO LABELING TO PERMIT IMPORTATION.—Section 804 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following paragraph:

''(4) specify a fair and reasonable fee that a manufacturer may charge an importer for printing and shipping labels for a covered product for use by the importer.'';

(2) in subsection (e)(2), by inserting after ''used only for purposes of testing'' the following: ''or the labeling of covered products''; and

(3) in subsection (h)—

(A) by striking ''No manufacturer'' and inserting the following:

''(1) IN GENERAL.—No manufacturer''; and

(B) by adding at the end the following:

''(2) NO CONDITIONS FOR LABELING.—No manufacturer of a covered product may impose any condition for the privilege of an importer in using labeling for a covered product, except a requirement that the importer pay a fee for such use established by regulation under subsection (b)(4).''.

(b) PROHIBITION OF PRICING CONDITIONS.—Paragraph (1) of section 804(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384(h)) (as designated by subsection (a)(3)(A)) is amended by inserting before the period at the end the following: ''that—

''(A) imposes a condition regarding the price at which an importer may resell a covered product; or

''(B) discriminates against a person on the basis of—

''(i) importation by the person of a covered product imported under subsection (a); or

''(ii) sale or distribution by the person of such covered products''.

(c) CONDITIONS FOR TAKING EFFECT.—Section 804 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384) is amended by striking subsection (l) and inserting the following:

''(l) CONDITIONS FOR TAKING EFFECT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), this section shall become effective only if the Secretary certifies to Congress that there is no reasonable likelihood that the implementation of this section would pose any appreciable additional risk to the public health or safety.

''(2) REGULATIONS.—Notwithstanding the failure of the Secretary to make a certification under paragraph (1), the Secretary, not later than 30 days after the date of enactment of this paragraph, shall commence a rulemaking for the purpose of formulating regulations to enable the Secretary to implement this section immediately upon making such a certification.''.

(d) REPEAL OF SUNSET PROVISION.—Section 804 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384) is amended by striking subsection (m).

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 804 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384) (as amended by subsection (d)) is amended by adding at the end the following:

''(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 2002 and each subsequent fiscal year such sums as are necessary to carry out this section.''.

By Mr. SPECTER (for himself, Mr. HARKIN, Mr. BIDEN, Mr. JEFFORDS, and Mr. CHAFEE):

S. 216. A bill to establish a Commission for the comprehensive study of voting procedures in Federal, State, and local elections, and for other purposes; to the Committee on Rules and Administration.

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation which seeks to modernize Federal election voting procedures throughout the United States. The 2000 election saga is now over and, in the words of President John F. Kennedy, ''Our task now is not to fix the blame for the past, but to fix the course for the future.''

I believe that had we studied our country's voting and monitoring procedures after President Kennedy's election, we would have in place today a uniform Federal election system that would have avoided the very problem presented in Florida. The presidential election of the year 2000 has drawn attention to several issues relating to current voting technologies. The central question is, how can we ensure fair, reliable, prompt and secure voting procedures?

In this electronic age—in a nation that has put a man on the moon and an ATM machine on every corner—we have no excuse not to ensure that we have an accurate voting system in which every person's vote counts. Thousands of my Pennsylvania constituents raise similar questions relating to the paradox of the ''Internet age'' and antiquated voting procedures. In order to move the voting process to the point we expect in the 21st century, we must establish a system that will improve the integrity of elections and facilitate faster, more accurate results and overcome the weaknesses of older election technology.

It is not really practical for someone to layout an entire bill with the precise procedures to implement these objectives, but it seems to me that it will be useful to establish a Commission which would take up the question of how to reform our Federal election procedures. On November 14, 2000, the first legislative day following the presidential election, I introduced legislation addressing the issue of modernizing our voting procedures. Today, I am reintroducing essentially the same bill with my distinguished colleague, Senator HARKIN, as the lead cosponsor. This bill would establish a Commission for the Comprehensive Study of Voting Procedures which would take up the very question of the best methods to ensure accurate, electronic, and timely reporting of vote counts. The Commission would then submit a report to the President and Congress which would include recommendations to reform or augment current voting procedures for Federal elections. Further, this bill would authorize matching grants for States and localities to implement the Commission's recommendations in relation to Federal elections. Congress should address this issue as least as to Federal elections, leaving the matters of State and local elections to State officials under Federalist concepts.

Specifically, my bill would create a 6 member Commission with the President, Senate Majority Leader, Senate Minority Leader, Speaker of the House, and House Minority Leader each appointing one member; and the Director of the Office of Election Administration of the Federal Election Commission serving as a advisory, non-voting member. The Commission would conduct a thorough study of all issues relating to voting procedures in Federal, State, and local elections, including the following: (1) Voting procedures in Federal, State, and local government elections; (2) Current voting procedures which represent the best practices in Federal, State, and local government elections; (3) Current legislation and regulatory efforts which affect voting procedures; (4) Implementing standardized voting procedures, including technology, for Federal, State, and local government elections; (5) Speed and timeliness of reporting vote counts in Federal, State, and local government elections; (6) Accuracy of vote counts in Federal, State, and local government elections; (7) Security of voting procedures in Federal, State, and local government elections; (8) Accessibility of voting procedures for individuals with disabilities and the elderly; and (9) Level of matching grant funding necessary to enable States and localities to implement the recommendations of the Commission for the modernization of State and local voting procedures. The details of this bill are incorporated in the attached section-by-section analysis.

Studies have shown that more than half of the nation's registered voters are currently using outdated voting systems. A recent USA Today article noted that most voters across our country still punch paper ballots, even though experts say that system is more vulnerable to voter error than any other. In addition, approximately 20% of voters use mechanical-lever machines that are no longer manufactured, while more than 25% of voters fill in a circle, square, or arrow next to their choice of candidates on a ballot.

My bill is necessary to prevent a recurrence of the problems that threatened the 2000 presidential election whose problems could have been avoided if we had modernized voting and monitoring procedures. Voting is the fundamental safeguard of our democracy and we have the technological power to ensure that every person's vote does count. The time is now to repair the problems of our patchwork system in order to restore the faith of American voters in our Federal election process. Mr. President, I ask that the full text of the bill and a section by section analysis be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 216

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Commission on the Comprehensive Study of Voting Procedures Act of 2001''.

SEC. 2. FINDINGS.

Congress finds that—

(1) Americans are increasingly concerned about current voting procedures;

(2) Americans are increasingly concerned about the speed and timeliness of vote counts;

(3) Americans are increasingly concerned about the accuracy of vote counts;

(4) Americans are increasingly concerned about the security of voting procedures;

(5) the shift in the United States is to the increasing use of technology which calls for a reassessment of the use of standardized technology for Federal elections; and

(6) there is a need for Congress to establish a method for standardizing voting procedures in order to ensure the integrity of Federal elections.

SEC. 3. ESTABLISHMENT OF COMMISSION.

There is established the Commission on the Comprehensive Study of Voting Procedures (in this Act referred to as the ''Commission'').

SEC. 4. DUTIES OF THE COMMISSION; MATCHING GRANT PROGRAM.

(a) STUDY.—Not later than 1 year after the date on which all of the members of the Commission have been appointed under section 5, the Commission shall complete a

thorough study of all issues relating to voting procedures in Federal, State, and local elections, including the following:

(1) Voting procedures in Federal, State, and local government elections.

(2) Voting procedures that represent the best practices in Federal, State, and local government elections.

(3) Legislation and regulatory efforts that affect voting procedures issues.

(4) The implementation of standardized voting procedures, including standardized technology, for Federal, State, and local government elections.

(5) The speed and timeliness of vote counts in Federal, State and local elections.

(6) The accuracy of vote counts in Federal, State and local elections.

(7) The security of voting procedures in Federal, State and local elections.

(8) The accessibility of voting procedures for individuals with disabilities and the elderly.

(9) The level of matching grant funding necessary to enable States and localities to implement the recommendations made by the Commission under subsection (b) for the modernization of State and local voting procedures.

(b) RECOMMENDATIONS.—The Commission shall develop recommendations with respect to Federal elections matters.

(c) REPORTS.—

(1) FINAL REPORT.—Not later than 180 days after the expiration of the period referred to in subsection (a), the Commission shall submit a report, that has been approved by a majority of the members of the Commission, to the President and Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(2) INTERIM REPORTS.—The Commission may submit to the President and Congress any interim reports that are approved by a majority of the members of the Commission.

(3) ADDITIONAL REPORTS.—The Commission may, together with the report submitted under paragraph (1), submit additional reports that contain any dissenting or minority opinions of the members of the Commission.

(d) MATCHING GRANT PROGRAM.—

(1) AUTHORITY.—After the submission of the final report under subsection (c)(1), the Attorney General, acting through the Assistant Attorney General for the Office of Justice Programs, shall award grants to State and local governments to enable such governments to implement the recommendations made by the Commission under subsection (b).

(2) APPLICATION.—To be eligible to receive a grant under paragraph (1), a State or local government shall prepare and submit to the Attorney General an application at such time, in such manner, and containing such information as the Attorney General may require including an assurance that the applicant will comply with the requirements of paragraph (3).

(3) MATCHING FUNDS.—The Attorney General may not award a grant to a State or local government under this subsection unless the government agrees to makes available (directly or through donations from public or private entities) non-Federal contributions toward the activities to be conducted under the grant in an amount equal to not less than $1 for each $1 of Federal funds provided under the grant.

(4) AMOUNT OF GRANT.—The Attorney General shall determine the amount of each grant under this subsection based on the recommendations made by the Commission under subsection (b).

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, the amounts recommended for each fiscal year by the Commission under subsection (b) as being necessary for the modernization of State and local voting procedures with respect to Federal elections.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of—

(1) five voting members of whom—

(A) one shall be appointed by the President;

(B) one shall be appointed by the majority leader of the Senate;

(C) one shall be appointed by the minority leader of the Senate;

(D) one shall be appointed by the Speaker of the House of Representatives; and

(E) one shall be appointed by the minority leader of the House of Representatives; and

(2) the Director of the Office of Election Administration of the Federal Election Commission who shall be an advisory, nonvoting member.

(b) DATE OF APPOINTMENT.—The appointments of the members of the Commission shall be made not later than 30 days after the date of enactment of this Act.

(c) TERMS.—Each member of the Commission shall be appointed for the life of the Commission.

(d) VACANCIES.—A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(e) MEETINGS.—

(1) IN GENERAL.—The Commission shall meet at the call of the Chairperson or a majority if its members.

(2) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among its members.

SEC. 6. POWERS OF THE COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may hold such hearings for the purpose of carrying out this Act, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act. The Commission may administer oaths and affirmations to witnesses appearing before the Commission.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) WEBSITE.—For purposes of conducting the study under section 4(a), the Commission shall establish a website to facilitate public comment and participation.

(d) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(e) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Chairperson of the Commission, the Administrator of the General Services Administration shall provide to the Commission, on a reimbursable basis, the administrative support services that are necessary to enable the Commission to carry out its duties under this Act.

(f) CONTRACTS.—The Commission may contract with and compensate persons and Federal agencies for supplies and services without regard to section 3709 of the Revised Statutes (42 U.S.C. 5).

(g) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property to carry out this Act.

SEC. 7. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 8. LIMITATION ON CONTRACTING AUTHORITY.

Any new contracting authority provided for in this Act shall be effective only to the extent, or in the amounts, provided for in advance in appropriations Acts.

SEC. 9. TERMINATION OF THE COMMISSION.

The Commission shall terminate 30 days after the date on which the Commission submits its report under section 4.

SEC. 10. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to prohibit the enactment of an Act with respect to voting procedures during the period in which the Commission is carrying out its duties under this Act.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to the Commission to carry out this Act.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

SECTION-BY-SECTION ANALYSIS—THE COMMISSION FOR THE COMPREHENSIVE STUDY OF VOTING PROCEDURES ACT OF 2001

Sections 1–2. Denotes the title of the bill and enumerates the findings, which include increasing concern over voting procedures; increasing concern over the speed, timeliness, and accuracy of voting counts; increasing use of technology by American citizens; and increasing need for standardized voting technology and standardized voting procedures in Federal elections.

Section 3. Establishes the Commission for the Comprehensive Study of Voting Procedures.

Section 4. Directs the Commission to conduct a study of issues relating to voting procedures, which should take no more than one year from the appointment of the full Commission and should include the following:

Monitoring voting procedures in Federal, State, and local government elections;

Current voting procedures which represent the best practices in Federal, State, and local government elections;

Current legislation and regulatory efforts which affect voting procedures issues;

Implementing standardized voting procedures, including standardized technology, for Federal, State, and local government elections;

Speed and timeliness of reporting vote counts in Federal, State, and local government elections;

Accuracy of vote counts in Federal, State, and local government elections;

Security of voting procedures in Federal, State, and local government elections;

Accessibility of voting procedures for individuals with disabilities and the elderly;

Level of matching grant funding necessary to enable States and localities to implement the recommendations of the Commission for the modernization of State and local voting procedures.

Requires the Commission to submit a report to Congress on its findings, including any recommendations for legislation to reform or augment current voting procedures, within 180 days of completing their study.

Establishes a matching grant program for States and localities under the Assistant Attorney General for the Office of Justice Programs, following the submissions of the Commission's final report. Also, authorizes an amount to be appropriated as the Commission finds necessary for States and localities to implement the recommendations of the Commission with respect to Federal elections.

Section 5. Specifies the membership of the Commission. Stipulates that the Commission consist of 6 members appointed as follows:

1 by the President
1 by the Senate Majority Leader
1 by the Senate Minority Leader
1 by the Speaker of the House
1 by the House Minority Leader
the Director of the Office of Election Administration of the Federal Election Commission.

Sections 6–7. Authorizes powers to the Commission, establishes a Web site to facilitate public participation and comment, and provides for the hiring of a Director and staff.

Section 8–9. Limits the contracting authority of the Commission to those provided under appropriations and specifies that the Commission terminate 30 days after the final report is submitted.

Section 10–11. Specifies the caveat that the Act will not prohibit the enactment of legislation on voting procedure issues during the existence of the Commission and authorizes appropriations.

Mr. HARKIN. Mr. President, I am pleased to join with Senator SPECTER on the introduction of the Commission on the Comprehensive Study of Voting Procedures Act of 2001. This measure is very similar to the one we introduced soon after last year's election. I think that we can all agree that this year's Presidential election has exposed a number of serious flaws in Florida's voting system, as well as in those of many states around the country.

First, thousands of ballots were not counted due to voter error. Some people voted for two candidates. Some voted for no candidate. And thousands who voted for just one candidate did so in such a way that their ballots could not be accurately read by vote-counting machines.

Second, the systems we traditionally use to decide elections—systems that can determine the results of an election that is won by one percent or two percent or five percent of the vote—simply aren't accurate enough to decide an election based on a margin of just hundredths of one percent. For example, ask any election expert in the country, and they'll tell you that punch card machines just aren't up to such a task. The press late last year was filled with reports and analysis showing that punch card systems have a far greater proportion of undercounted votes than other systems.

We also now know that butterfly ballots were not the wisest idea. And it's not just a matter of avoiding that particular design. We've also got to develop a mechanism to ensure that ballots are designed in ways that voter error is minimized. In addition, we learned that some Floridians thought they were registered to vote. However, when they arrived at the polls, they found that their names were not listed on the registration roles. These citizens were not allowed to vote in Florida.

Clearly, our voting system has flaws. However there's nothing wrong with our voting system that can't be fixed by what's right with it. For example, in Iowa, we have a law that allows any potential voter who is not found on the registration roles to cast a ''challenged ballot.'' This challenged ballot is like an absentee ballot. It's put in an envelope, and election officials spend the days immediately after the election rechecking registration roles for clerical errors.

If an error was made, and a person was indeed registered to vote, then his or her challenged ballot is counted. This isn't a perfect solution, but it ensures that fewer people fall through the cracks. And there are more creative answers like this just waiting to be discovered in innovative, forward-thinking counties throughout America. That's why Senator SPECTER and I have introduced a bill designed to revamp our election systems to make them as clear, accessible and accurate as possible.

The Specter-Harkin bill establishes a bipartisan commission which would spend one year examining election practices throughout America. The Commission would seek to discover the strengths and weaknesses in our election system in order to determine the best course of action for the future.

The Commission would specifically be responsible for studying the following:

(1) Voting procedures in Federal, State, and local government elections.

(2) Voting procedures that represent the best practices in Federal, State, and local government elections.

(3) Legislation and regulatory efforts that affect voting procedures issues.

(4) The implementation of standardized voting procedures, including standardized technology for Federal, State, and local government elections.

(5) The speed and timeliness of vote counts in Federal, State and local elections.

(6) The accuracy of vote counts in Federal, State and local elections.

(7) The security of voting procedures in Federal, State and local elections.

(8) The accessibility of voting procedures for individuals with disabilities and the elderly.

(9) The level of matching grant funding necessary to implement the Commission's recommendations.

Lastly, the bill authorizes a one-to-one matching grant program subject to the appropriation of the funds.

The commission would seek to answer questions like the following: What are the latest innovations in voting technology? What are the best failsafe systems we can install to alert voters that they've voted for too many candidates or too few? Are we doing everything we can to make our voting system accessible to the elderly, people with disabilities, and others with special needs?

The next Presidential election is less than four years away. By allotting 12 full months for the Commission to study our voting systems, we'll leave time for the Commission to finish a report and submit it to Congress for review and passage, and to allow Federal,

State and local governments to pass and implement new voting legislation. But the timeline is tight, and we must move forward quickly.

Clearly, when it comes to voting, local officials should have discretion in their precincts. But at the very least, we must establish minimum standards for accessibility and accuracy in order to ensure a full, fair and precise count. We also need clear guidelines regarding the recounting of votes in very close elections. Each vote is an expression of one American's will, and we cannot deny anyone that fundamental right to shape our democracy.

There will always be conflicting views about what happened in Florida. And we'll probably never come to complete agreement on the results. But let us move forward and work together to minimize voting inaccuracies in the future and ensure every American's right to be heard.

By Mr. SCHUMER (for himself, Mr. WARNER, Mr. DURBIN, Mr. SANTORUM, Mr. SARBANES, Mr. CHAFEE, Mr. VOINOVICH, Mr. KERRY, Mr. DODD, and Ms. MIKULSKI):

S. 217. A bill to amend the Internal Revenue Code of 1986 to provide a uniform dollar limitation for all types of transportation fringe benefits excludable from gross income, and for other purposes; to the Committee on Finance.

Mr. SCHUMER. Mr. President, I am proud to join my colleagues—Senators WARNER, DURBIN, CHAFEE, SARBANES, SANTORUM, DODD, KERRY, VOINOVICH, and MIKULSKI today to introduce the Commuter Benefits Equity Act of 2001. This bill corrects an inequity in the tax code and has the potential to draw hundreds of thousands of commuters out of their cars and onto our nation's transit and commuter rail systems.

The inequity I am speaking about is the largely ignored difference in the amount of ''pretax'' compensation that current law permits employers to give employees to cover parking and transit costs. At present, a company may provide a worker with $175 per month to cover parking expenses. That limit is set at $65 per employee for mass transit expenses.

At a time when our nation's highways and bridges are under unprecedented strain, it is hard to believe that federal law provides a greater incentive for workers to drive to work than to leave their cars at home.

The Commuter Benefits Equity Act of 2001 would raise the monthly cap to $175 for transit and provide ''cost of living'' increases for both benefits in the future. I would note that the parking benefit just received a $5 COLA.

It is often said that people love their cars and simply will not ride mass transit to work. Many times this view is asserted as if it were an incontrovertible fact. I don't believe it at all, and recent ridership increases show how untrue such statements are.

According to the American Public Transportation Association, Americans took over 9.4 billion trips on public transportation last year—a 320 million ride increase over 1999. This figure marks the highest ridership number in more than forty years. It also signifies a 20 percent increase over the last five years.

Clearly, Americans are willing to use mass transportation. I suspect that if the federal government were to remove barriers like the current disparity in the parking and transit benefits, even more would abandon their cars.

It certainly is a goal worth pursuing.

According to the Texas Transportation Institute, between 1982 and 1997 the average delays faced by commuters in our metropolitan areas increased by alarming percentages. Over that fifteen-year period, commuters in New York endured a 158-percent increase in the amount of time they spent stuck in traffic. And that, comparatively speaking, is low. The figure for Detroit commuters was 182 percent. In Dallas it was 300 percent. Denver commuters faced a grim 337-percent increase.

The monthly cap on the federal transit benefit must be raised because it is far below the average costs incurred by the suburban commuters who use mass transportation. For instance, it costs a Westchester, New York commuter over $170 per month to take MetroNorth into the City. In Chicago, the average cost is approximately $148. In suburban Seattle that cost can exceed $200. Many commuters who would prefer to ride a train into work versus sitting in traffic probably can't afford to do so. This is because the choice between paying the majority of their own mass transportation costs or sitting in traffic and getting heavily subsidized parking is one they cannot justify economically.

My colleagues and I believe that by creating a more level playing field between the transit and parking benefits, mass transportation use in this country will rise more rapidly. We also anticipate that our nation's urban highways will operate more efficiently. This view is shared by groups such as the Sierra Club, Environmental Defense, and the U.S. Conference of Mayors, who have endorsed the Commuter Benefits Equity Act of 2001.

Mr. President, I ask unanimous consent that any comments relating to this bill appear in the RECORD following my remarks as well as the text of the Commuter Benefits Equity Act of 2001.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 217

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Commuter Benefits Equity Act of 2001''.

SEC. 2. UNIFORM DOLLAR LIMITATION FOR ALL TYPES OF TRANSPORTATION FRINGE BENEFITS.

(a) IN GENERAL.—Subparagraph (A) of section 132(f)(2) of the Internal Revenue Code of 1986 (relating to limitation on exclusion) is amended by striking ''$65'' and inserting ''$175''.

(b) CONFORMING AMENDMENT.—Section 9010 of the Transportation Equity Act for the 21st Century is amended by striking subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 3. CLARIFICATION OF FEDERAL EMPLOYEE BENEFITS.

Section 7905 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(C) by inserting ''and'' after the semicolon;

(B) in paragraph (3) by striking ''; and'' and inserting a period; and

(C) by striking paragraph (4); and

(2) in subsection (b)(2)(A) by amending subparagraph (A) to read as follows:

''(A) a qualified transportation fringe as defined in section 132(f)(1) of the Internal Revenue Code of 1986;''.

Mr. WARNER. Mr. President, I am pleased today to join with my distinguished colleague from New York, Senator SCHUMER, to introduce the Commuter Benefits Equity Act of 2001.

Transportation gridlock in the metropolitan Washington region is dramatic and well documented. The average commuter spends about 76 hours a year idling on our area roads. The average speed on the Capital Beltway has decreased from 47 miles per hour to 23 miles per hour today. This wasted time in cars results in lost work productivity, lost time with families and degraded air quality. The quality of life for commuters is significantly reduced all across the country. I firmly believe the strength of our economy will be jeopardized if the growing rate of congestion in our communities remains unchecked.

Yes, the construction of new roads and the expansion of existing roads must occur. But, this alone is not the answer to our problems. Relief from our growing gridlock will not come from any one solution. It will only come from an integrated policy of options that provide short-term, immediate solutions, together with long-term planning for new transportation facilities, both roads and transit.

For these reasons, I have worked over the years to provide commuters with greater incentives to use mass transit, bus or rail, and to join vanpools. Increased transit ridership, extension of the Metro system, the Dulles Rapid Transit System, and expanded telecommuting opportunities are critical to providing temporary short-term solutions. Greater transit use and broader telework options are measures we can implement today that will deliver results tomorrow.

The measure I am introducing today with Senator SCHUMER will provide parity in the tax code for those who enjoy employer-provided parking and those who elect to commute by mass transit.

Today, the tax code provides two benefits for employers to offer their employees, both Federal employees and those in the private sector. Employers can offer employees a cash benefit of $65 per month for commuting expenses, or employers can set aside up to $65 per month of an employee's pre-tax income to pay for commuting costs. Under the tax code, however, the employer-provided parking benefit is valued at $175 per month.

The legislation introduced today will increase the transit/vanpool benefit to $175 per month to be on par with the value of the parking benefit.

Last year, I authored a provision in the FY 2001 Department of Defense Authorization bill requiring the Department of Defense to offer the cash commuting benefit to all DOD employees working in areas that do not meet the Federal air quality standards. With a total metropolitan Washington regional federal workforce of 323,000 persons, the Department of Defense is, by far, the single largest federal employer with 65,000 persons.

The implementation of this benefit by the Federal agencies will improve employee satisfaction and have a positive effect on retention rates in the Federal workforce. This measure, however, is not limited to Federal employees. It does extend the benefit to private sector employees as well.

Equally important are the resulting air quality benefits from increased transit use. According to the Environmental Protection Agency, the metropolitan Washington area is an air quality non-attainment area, categorized as severe, under the Clean Air Act Amendments of 1990. Mobile sources are responsible for the majority of our air quality violations.

Mr. President, I commend this legislation to my colleagues for their attention. It's costs are modest, and the benefits to our society are significant.

Mr. SARBANES. Mr. President, I am pleased to join with my colleagues Senators SCHUMER and WARNER in introducing the Commuter Benefits Equity Act of 2001. This measure is another important step forward in our efforts to make transit services more accessible and improve the quality of life for commuters throughout the nation.

All across the nation, congestion and gridlock are taking their toll in terms of economic loss, environmental impacts, and personal frustration. According to the Texas Transportation Institute's Annual Mobility Report, in 1997, Americans in 68 urban areas spent 4.3 billion hours stuck in traffic, with an estimated cost to the nation of $72 billion in lost time and wasted fuel, and the problem is growing. One way in which federal, state, and local governments are responding to this problem is by promoting greater use of transit as a commuting option. The American Public Transportation Association estimates that last year, Americans took over 9.4 billion trips on transit, the highest level in more than 40 years. But we need to do more to encourage people to get out of their cars and onto public transportation.

The Internal Revenue Code currently allows employers to provide a tax-free transit benefit to their employees. Under this ''Commuter Choice'' program, employers can set aside up to $65 per month of an employee's pre-tax income to pay for the cost of commuting by public transportation or vanpool. Alternatively, an employer can choose to offer the same amount as a tax-free benefit in addition to an employee's salary. This program is designed to encourage Americans to leave their cars behind when commuting to work.

By all accounts, this program is working. In the Washington area, for example, the Washington Metropolitan Area Transit Authority reports that 168,500 commuters take advantage of transit pass programs offered by their employers. That means fewer cars on our congested streets and highways.

Employees of the federal government account for a large percentage of those benefitting from this program in the Washington area. Under an Executive Order issued by President Clinton, all federal agencies in the National Capital Region, which includes Montgomery, Prince George's, and Frederick Counties, Maryland, as well as several counties in Northern Virginia, are required to offer this transit benefit to their employees. The Commuter Choice program is now being used by 115,000 Washington-area federal employees who are choosing to take transit to work.

However, despite the success of the Commuter Choice program in taking cars off the road, our tax laws still reflect a bias toward driving. The Internal Revenue Code allows employers to offer a tax-free parking benefit to their employees of up to $175 per month. The striking disparity between the amount allowed for parking—$175 per month—and the amount allowed for transit—$65 per month—undermines our commitment to supporting public transportation use.

The Commuter Benefits Equity Act would address this discrepancy by raising the maximum monthly transit benefit to $175, equal to the parking benefit. The federal government should not reward those who drive to work more richly than those who take public transportation. Indeed, since the passage of the Intermodal Surface Transportation Efficiency Act of 1991, federal transportation policy has endeavored to create a level playing field between highways and transit, favoring neither mode above the other. The Commuter Benefits Equity Act would ensure that our tax laws reflect this balanced approach.

In addition, the Commuter Benefits Equity Act would remedy another inconsistency in current law. Private-sector employers can offer their employees the transit benefit in tandem with the parking benefit, to help employees pay for the costs of parking at transit facilities, commuter rail stations, or other locations which serve public transportation or vanpool commuters. However, under current law, federal agencies cannot offer a parking benefit to their employees who use park-and-ride lots or other remote parking locations. The Commuter Benefits Equity Act would remove this restriction, allowing federal employees access to the same benefits enjoyed by their private-sector counterparts.

The Washington Metropolitan Region is home to thousands of federal employees. It is also one of the nation's most highly congested areas, with the second longest average commute time in the country. This area ranks third in the nation in the number of workers commuting more than 60 minutes to work, and has the highest per vehicle congestion cost and the second highest per capita congestion cost in the nation. It is clearly in our interest to support programs which encourage federal employees to make greater use of public transportation for their commuting needs.

The simple change made by the Commuter Benefits Equity Act would provide a significant benefit to those federal employees whose commute to work includes parking at a transit facility. For example, a commuter who rides the Metrorail System to work and parks at the Wheaton park-and-ride lot pays about $50 monthly for parking, on top of the cost of riding the train. A private-sector employee whose employer provides the parking benefit in addition to salary could receive $600 a year tax free to help pay these parking costs. Federal government employees should be allowed the same benefit.

I support the Commuter Benefits Equity Act because it creates parity—parity in the tax code between the parking and transit benefits, and parity for federal employees with their private-sector counterparts. Both of these improvements will aid our efforts to fight congestion and pollution by supporting public transportation. I encourage my colleagues to join me in supporting the Commuter Benefits Equity Act.

By Mr. MCCONNELL (for himself, Mr. TORRICELLI, Mrs. FEINSTEIN, Mr. ALLARD, Mr. SMITH of Oregon, Ms. LANDRIEU, Mr. BURNS, Mr. BENNETT, Mr. BREAUX, Mr. HUTCHINSON, Mr. SANTORUM, Mr. WARNER, Mr. REID, and Mr. ROBERTS).

S. 218. A bill to establish an Election Administration Commission to study Federal, State, and local voting procedures and election administration and provide grants to modernize voting procedures and election administration, and for other purposes; to the Committee on Rules and Administration.

Mr. MCCONNELL. Mr. President, I rise today to re-introduce along with Senators TORRICELLI, FEINSTEIN, ALLARD, SMITH, BREAUX, BURNS, REID, BENNETT, LANDRIEU, SANTORUM, ROBERTS, HUTCHINSON, and WARNER meaningful, bipartisan legislation to reform the administration of our nation's elections. I ask that the entire text of my statement and the text of the legislation appear in the RECORD.

As we move into the twenty-first century it is inexcusable that the world's most advanced democracy relies on voting systems designed shortly after the Second World War. The goal of our legislation is rather simple: that no American ever again be forced to hear the phrases dimpled chad, hanging chad or pregnant chad. The Election Reform Act will ensure that our nation's electoral process is brought up to twenty-first century standards.

By combining the Federal Election Commission's Election Clearinghouse and the Department of Defenses' Office of Voting Assistance, which facilitates voting by American civilians and servicemen overseas, into the Election Administration Commission, the bill will create one agency that can bring focuses expertise to bear on the administration of elections. This Commission will consist of four Commissioners appointed by the President with the advice and consent of the Senate. It will continue to carry out the functions of the two entities that are being combined to create it.

In addition, the new Commission will engage in ongoing study and make periodic recommendations on the best practices relating to voting technology and ballot design as well as polling place accessibility for the disabled. The Commission will also study and recommend ways to improve voter registration, verification of registration, and the maintenance and accuracy of voter rolls. This is of special urgency in view of the allegations surfacing in this election of hundreds of felons being listed on voting rolls and illegally voting, as reported in the Miami Herald, while other law abiding citizens who allegedly registered were not included on the voting rolls and were unable to vote. Such revelations from this year's elections coupled with the well-knows report by ''60 Minutes'' of the prevalence of dead people and pets both registering and voting in past elections make clear the need for thoughtful study and recommendations to ensure that everyone who is legally entitled to vote is able to do so and that everyone who votes is legally entitled to do so—and does so only once.

In addition to its studies and recommendations, the Commission will provide matching grants to states working to improve election administration. During the first four years, low-income communities will get priority for these grants and low-income communities are permanently exempted from the requirement to provide matching funds. The legislation also ensure that states comply with the provisions in the Uniformed Overseas Voting Act designed to facilitate voting by members of the armed forces stationed overseas.

Finally, I am pleased also to announce that Representative TOM DAVIS, along with Representatives ROTHMAN, DREIER, and HASTINGS are re-introducing the House companion to our bill today.

Mr. DODD (for himself, Mr. MCCAIN, Mr. HOLLINGS, and Mr. HAGEL):

S. 219. A bill to suspend for two years the certification procedures under section 490(b) of the Foreign Assistance Act of 1961 in order to foster greater multilateral cooperation in international counternarcotics programs, and for other purposes; to the Committee on Foreign Relations.

Mr. DODD. Mr. President, today I send to the desk legislation on behalf of myself, Senators MCCAIN, HOLLINGS and HAGEL. The purpose of the bill we are introducing today is to help the incoming Bush administration in its efforts to strengthen international cooperation in combating international drug trafficking and drug-related crimes.

As you know, the issue of how best to construct and implement an effective international counter narcotics policy has been the subject of much debate in this Chamber over the years, and I would add much disagreement. Our intention in introducing this legislation is to try to see if there is some way to end what has become a stale annual debate that has not brought us any closer to mounting a credible effort to eliminate or even contain the international drug mafia. We all can agree that drugs are a problem—a big problem. We can agree as well that the international drug trade poses a direct threat to the United States and to international efforts to promote democracy, economic stability, human rights, and the rule of law throughout the world, but most especially in our own hemisphere.

While the international impact is serious and of great concern, of even greater concern to me personally are effects it is having here at home. Last year Americans spent more than $60 billion to purchase illegal drugs. Nearly 15 million Americans (twelve years of age and older) use illegal drugs, including 1.5 million cocaine users, 208,000 heroin addicts, and more than 11 million smokers of marijuana. This menace isn't just confined to inner cities or the poor. Illegal drug use occurs among members of every ethnic and socioeconomic group in the United States.

The human and economic costs of illegal drug consumption by Americans are enormous. More than 16,000 people die annual as a result of drug induced deaths. Drug related illness, death, and crime cost the United States approximately over $100 billion annually, including costs for lost productivity, premature death, and incarceration.

This is an enormously lucrative business—drug trafficking generates estimated revenues of $400 billion annually. The United States has spent more than $30 billion in foreign interdiction and source country counter narcotics programs since 1981, and despite impressive seizures at the border, on the high seas, and in other countries, foreign drugs are cheaper and more readily available in the United States today than two decades ago.

We think that for a variety of reasons, that the time is right to give the incoming Bush administration some flexibility with respect to the annual certification process, so that it can determine whether this is the best mechanism for producing the kind of international cooperation and partnership that is needed to contain this transnational menace. I believe that government leaders, particularly in this hemisphere, have come to recognize that illegal drug production and consumption are increasingly threats to political stability within their national borders. Clearly President Pastrana of Colombia has acknowledged that fact and has sought to work very closely with the United States in implementing Plan Colombia. Similarly President Vincente Fox of Mexico has made international counter narcotics cooperation a high priority since assuming office last December. These leaders also feel strongly, however, that unilateral efforts by the United States to grade their governments' performance in this area is a major irritant in the bilateral relationship and counterproductive to their efforts to instill a cooperative spirit in their own bureaucracies.

The legislation we are introducing today recognizes that illicit drug production, distribution and consumption are national security threats to many governments around the globe, and especially many of those in our own hemisphere, including Mexico, Colombia, and other countries in the Andean region. It urges the Administration to develop an enhanced multilateral strategy for addressing these threats from both the supply and demand side of the equation. It calls upon the President to consider convening a conference of heads of state, at an early

date, to review on a country-by-country basis, national strategies for drug reduction and prevention, and agree upon a time table for action. It also recommends that the President submit any legislative changes to existing law which he deems necessary in order to implement this international program within one year from the enactment of this legislation.

In order to create the kind of international cooperation and mutual respect that must be present if the Bush administration's effort is to produce results, the bill would also suspend the annual drug certification procedure for a period of 2 years, while efforts are ongoing to develop and implement this enhanced multilateral strategy. I believe it is fair to say that while the certification procedure may have had merit when it was enacted into law in 1986, it has now become a hurdle to furthering bilateral and multilateral cooperation with other governments, particularly those in our own hemisphere such as Mexico and Colombia—governments whose cooperation is critical if we are to succeed in stemming the flow of drugs across our borders.

Let me make clear however, that while we would not be ''grading'' other governments on whether they have ''cooperated fully'' during the two year ''suspension'' period, the detailed reporting requirements currently required by law concerning what each government has done to cooperate in the areas of eradication, extradition, asset seizure, money laundering and demand reduction during the previous calendar year will remain in force. We will be fully informed as to whether governments are following short of their national and international obligations. Moreover, if the President determines during the two year suspension period that the certification process may be useful in order to elicit more cooperation from a particular government he may go ahead and issue the annual certification decision with respect to that country. The annual determination as to which countries are major producers or transit sources of illegal drugs will also continue to be required by law.

I believe that we need to reach out to other governments who share our concerns about the threat that drugs pose to the very fabric of their societies and our own. It is arrogant to assume we are the only Nation that cares about such matters. We need to sit down and figure out what each of us can do better to make it harder for drug traffickers to ply their trade. It is in that spirit that we urge our colleagues to give this proposal serious consideration. Together, working collectively we can defeat the traffickers. But if we expend our energies playing the blame game, we are certainly not going to effectively address this threat. We aren't going to stop one additional teenager from becoming hooked on drugs, or one more citizen from being mugged outside his home by some drug crazed thief.

During the Clinton Administration, Barry McCaffrey, the Director of the Office of National Drug Control Policy did a fine job in attempting to forge more cooperative relations with Colombia, Mexico and other countries in our own hemisphere. The OAS has also done some important work over the last several years in putting in place an institutional framework for dealing with the complexities of compiling national statistics so that we can better understand what needs to be done. The United Nations, through its Office for Drug Control and Crime Prevention has also made some important contributions in furthering international cooperation in this area. However, still more needs to be done. We believe that this legislation will build upon that progress. I would urge my colleagues to give some thought and attention to our legislative initiative. We believe that if they do, that they will come to the conclusion that it is worthy of their support.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD at the conclusion of these remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 219

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TWO-YEAR SUSPENSION OF DRUG CERTIFICATION PROCEDURES.

(a) FINDINGS.—Congress makes the following findings:

(1) The international drug trade poses a direct threat to the United States and to international efforts to promote democracy, economic stability, human rights, and the rule of law.

(2) The United States has a vital national interest in combating the financial and other resources of the multinational drug cartels, which resources threaten the integrity of political and financial institutions both in the United States and abroad.

(3) Illegal drug use occurs among members of every ethnic and socioeconomic group in the United States.

(4) Worldwide drug trafficking generates revenues estimated at $400,000,000,000 annually.

(5) The 1961 Single Convention on Narcotic Drugs, the 1971 Convention on Psychotropic Substances, and the 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances form the legal framework for international dung control cooperation.

(6) The United Nations International Drug Control Program, the International Narcotics Control Board, and the Organization of American States can play important roles in facilitating the development and implementation of more effective multilateral programs to combat both domestic and international drug trafficking and consumption.

(7) The annual certification process required by section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j), which has been in effect since 1986, does not currently foster effective and consistent bilateral or multilateral cooperation with United States counternarcotics programs because its provisions are vague and inconsistently applied and in many cases have been superseded by subsequent bilateral and multilateral agreements and because it alienates the very allies whose cooperation we seek.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) many governments are extremely concerned by the national security threat posed by illicit drug production, distribution, and consumption, and crimes related thereto, particularly those in the Western Hemisphere;

(2) an enhanced multilateral strategy should be developed among drug producing, transit, and consuming nations designed to improve cooperation with respect to the investigation and prosecution of drug related crimes, and to make available information on effective drug education and drug treatment;

(3) the President should at the earliest feasible date in 2001 convene a conference of heads of state of major illicit drug producing countries, major drug transit countries, and major money laundering countries to present and review country by country drug reduction and prevention strategies relevant to the specific circumstances of each country, and agree to a program and timetable for implementation of such strategies; and

(4) not later than one year after the date of the enactment of this Act, the President should transmit to Congress legislation to implement a proposed multilateral strategy to achieve the goals referred to in paragraph (2), including any amendments to existing law that may be required to implement that strategy.

(c) TWO-YEAR SUSPENSION OF DRUG CERTIFICATION PROCESS.—(1) Subsections (a) through (g) of section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j), relating to annual certification procedures for assistance for certain drug-producing countries and drug-transit countries, shall not apply in the first 2 calendar years beginning after the date of the enactment of this Act.

(2) Notwithstanding any provision of paragraph (1), section 489 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291h), relating to the international narcotics control strategy report, and section 490(h) of that Act (22 U.S.C. 2291j(h)), relating to determinations of major drug-transit countries and major illicit drug producing countries, shall continue to apply in the 2 calendar years referred to in that paragraph.

(3) The President may waive the applicability of paragraph (1) to one or more countries in one or both of the calendar years referred to in that paragraph if the President determines that bilateral counternarcotics cooperation would be enhanced by the applicability of subsections (a) through (g) of section 490 of the Foreign Assistance Act of 1961 to such country or countries in such calendar year.

(d) APPLICABILITY.—(1) Except as provided in paragraph (2), the provisions of subsection (c) shall take effect on the date of the enactment of this Act and apply with respect to certifications otherwise required under section 490 of the Foreign Assistance of 1961 in the first two fiscal years beginning after that date.

(2) If this Act is enacted on or before February 28, 2001, the provisions of subsection (c) shall take effect on the date of the enactment of this Act and apply with respect to

certifications otherwise required under section 490 of the Foreign Assistance of 1961 in fiscal years 2001 and 2002.

Mr. HOLLINGS. Mr. President, I rise today to join my good friend Senator DODD, and our distinguished colleagues Senator HAGEL and Chairman MCCAIN, in cosponsoring an important piece of legislation with far-reaching effects in our struggle to combat drug trafficking. Our bill calls for the development of a multilateral strategy among major illicit drug producing, transit, drug demand, and consuming countries to improve cooperation with respect to the investigation and prosecution of drug related crimes. Intelligence reports have shown that sophisticated cartels operate on a truly global scale. America's drug demand problems may feed Europe's money laundering problems which are related to Asia's organized crime problems or street-crime in Latin America. All the states of the world are under attack from a common, sophisticated enemy. Our bill encourages the President of the United States to bring the heads of state together to review individual country strategies and develop a new multilateral approach. This bill requires the President to submit to Congress legislation to implement a multilateral strategy devised through the consultation process described above.

Drug trafficking becomes harder to fight as the world becomes increasingly interconnected. I am united with my colleagues to remain vigilant in fighting the proliferation of drugs on the streets of the United States. The last time I checked, the United States does not produce one ounce of cocaine, or one ounce of heroin. This bill recognizes the essential truth of drug trafficking—it is a multinational, multifaceted criminal plague that respects no borders.

With this in mind, I rise to support a 2-year moratorium of the annual U.S. certification procedures which require the President to certify that other nations qualify as ''partners'' in combating drug trafficking. This certification is required for the release of certain U.S. bilateral assistance, as well as for the release of multilateral development aid from institutions where the United States is a voting member. This practice stymies multilateral cooperation in combating drug trafficking and has not yielded any measurable results—unless one counts the resentment of our neighbors. We need a new approach and new strategic partners. This legislation will direct President Bush to seek out new approaches and new partners rather than wasting time and energy on certification.

Officials from Mexico, our neighbor and close ally, have routinely appealed to the President of the United States and to Congress to suspend the drug certification process. They argue it is detrimental to bilateral cooperation in enforcement and interdiction, it is bad for the morale of law enforcement, and it serves to absolve the United States from its responsibility in the proliferation of drug trafficking. Americans spend an estimated $110 billion a year on illegal drugs—the equivalent of one-tenth the value of the country's entire industrial production. Unfortunately, the dedicated and hardworking efforts of our law enforcement and customs officials to gain control of drugs entering our country from Mexico are to date unsuccessful. The Mexican police have been overwhelmed by the sheer volume of drugs transhipped through their country (The DEA estimated that, in 1999, 55 percent of the cocaine and 14 percent of the heroin which enter the United States came from Mexico, as did 3,700 metric tons of marijuana). The situation is further complicated by the existing corruption in Mexican police ranks. By way of example, in December 1999 the Government of Mexico reported that between 1997 and 1999 more than 1,400 federal police officers had been fired for corruption and that 357 of the officers had been prosecuted. Given the pervasive scale of the problem, the Federal Preventive Police (FPP) was created to investigate and root out crooked officers in the federal police. By the winter of 2000, several agents of the FPP were under investigation themselves for corruption.

Despite these grim examples there are clear signs of hope. In July 2000 Mexico turned a corner in history and ended seven decades of one-party rule by sending opposition candidate Vincente Fox to Los Pinos. Fox cast a wide net in the Mexican mainstream with themes of inclusion and governmental responsiveness in a historic campaign. ''Democracy is a starting point—it is the process by which society becomes organized and gains its own voice'' said Fox. ''Democracy provides the legitimacy necessary for the country to meet the historic challenges in the areas of development, social justice, and the reduction of inequality.''

President Fox represents a clean break with the institutionalized corruption and graft that carried Mexico to the brink of Chaos in 1994 when PRI presidential candidate Donaldo Colosio was assassinated. President Fox inherited a judicial system and a federal police force rocked by scandal and largely ineffectual in combating drug trafficking. Mexico ranked 4th in the World Bank's 2000 list of most corrupt governments. Backed with a popular mandate for change, Fox put fighting corruption as the overarching goal in all his policy initiatives. The task will not be easy. Last Friday, January 19th, for example, it was reported that convicted drug kingpin Joaquin Guzmán Loera escaped from a maximum security prison in Jalisco. Guzmán is a leader of the Félix Gallardo drug family, which authorities say is deeply involved in shipping illegal drugs to the United States.

While I am sobered by the accounts of the Guzmán escape, it is encouraging that the Mexican Supreme Court reversed its decision on extraditions for drug crimes and agreed to turn over drug kingpins wanted in the United States. We must further these confidence-building initiatives between the United States and Mexico. One way to do this is to grant Mexico a two-year moratorium from the drug certification process to allow President Fox to organize his Administration and to set his course. We should not evaluate President Fox for the corruption of his predecessors. We must allow him to address the endemic corruption that plaques the Mexican state.

This legislation does not cede Congress' role in the so-called drug war. It call for new energy and a new multilateral approach. It emphasizes Congress' interest in building real partnerships and looking for new answers in this difficult struggle. This legislation will give us a fresh start with our neighbor to the south and build confidence between our people. President Fox is committed to reforming Mexico and I intend to urge my colleagues to help this vibrant new leader to achieve his goal. He has brought the liberating force of democracy to his people, but his work is not done. President Fox has to use his power to transform the state. He has an old order to dismantle, a new one to build, and 6 years to do it. I have confidence in Mr. Fox and his able cabinet. My colleagues and I are reaching out to the Fox Administration and the Mexican people; we want to build a partnership and seek new ways to address common problems.

By Mrs. BOXER:

S. 221. A bill to authorize the Secretary of Energy to make loans through a revolving loan fund for States to construct electricity generation facilities for use in electricity supply emergencies.

Mrs. BOXER. Mr. President, since last week, I have introduced several bills to help California deal with the electricity crisis and to help prevent such emergencies from occurring in other States in the future. Today, I am introducing another such bill—the State Electricity Reserve Fund Act.

Current electricity generating capacity is tied to the expected need. Private generating companies have no incentive to build or maintain facilities that would generate capacity greater than what is needed to meet consumer demand. The plants would be idle most of the time. As a result, electricity shortages can occur.

A lack of rainfall, which means that hydroelectric facilities cannot be operated as often, as well as unseasonably

hot or cold temperatures, or rapid population increases in a State can all result in a demand for electricity unexpectedly exceeding supply. But with supply tied to expected demand, this can result in devastatingly large price increases for consumers and/or electricity shortages, which in turn could cause brownouts or blackouts.

This is exactly what has happened in California. In the late 1980's, the California Public Utilities Commission required utilities to determine demand for new power generating capacity. At that time, the state recognized that generation needs could increase. However, the utilities argued that no new capacity would be needed in California until 2005. The utilities fought the attempt by the state to make them build more generating capacity. The utilities argued it was not needed.

It turned out that it was needed. And whether the utilities should have known is another argument for another day. But the point here is that we cannot rely on the private sector to create a ''rainy day fund'' of electricity in the event of emergencies.

So, the State Electricity Reserve Fund Act would create a revolving loan fund for states to use to help pay for the creation of an electricity reserve capacity. These loans could be used by states to build electricity generation facilities that would be controlled by the state and would be kept in reserve unless the Governor of the State declares an electricity emergency.

Mr. President, it is not an unusual thing for the federal government to prepare for energy emergencies. We have the Strategic Petroleum Reserve in the case of oil shortages, and last year we established the Home Heating Oil Reserve for the Northeastern States. My bill is based on the same premise.

True, we cannot store electricity like we can store petroleum and heating oil. But we can financially help States build a reserve facility, including a reserve of the fuel that is needed to generate electricity, to be used in the case of electricity emergencies. If such a reserve had existed in California, we would not have reached State III emergencies and rolling blackouts over the past couple of weeks.

Mr. President, I think being prepared for emergencies is always a good policy. Helping States be prepared for electricity emergencies is no different.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 221

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''State Electricity Reserve Fund Act of 2001''.

SEC. 2. PURPOSE.

The purpose of this Act is to assist States in creating electric generating capacity to be used in the event of an electricity emergency.

SEC. 3. EMERGENCY ELECTRICITY GENERATION FACILITIES.

(a) REVOLVING LOAN FUND.—There is established in the Treasury of the United States a revolving loan fund to be known as the ''State Electricity Reserve Loan Fund'' consisting of such amounts as may be appropriated or credited to such Fund as provided in this section.

(b) EXPENDITURES FROM LOAN FUND.—

(1) IN GENERAL.—The Secretary of Energy, under such rules and regulations as the Secretary may prescribe, may make loans from the State Electricity Reserve Loan Fund, without further appropriation, to a State.

(2) PURPOSE.—Loans provided under this section shall be used for the purpose of designing and constructing 1 or more facilities in a State with capacity to generate an amount of electricity sufficient to meet the amount of any intermittent deficiencies in electricity supply that the State may reasonably be expected to experience during any period over the next 10 years.

(3) USE OF FUNDS.—A facility designed or constructed with a loan provided under this section—

(A) shall be owned by the State and operated by the State directly or through a contract with an electric utility or a consortium of electric utilities; and

(B) shall be operated to supply electricity to the electricity transmission grid only during periods of electricity emergencies declared by the Governor of the State.

(4) DETERMINATIONS BY SECRETARY.—No loan shall be provided under this section unless the Secretary determines that—

(A) there is reasonable assurance of repayment of the loan; and

(B) the amount of the loan, together with other funds provided by or available to the State, is adequate to assure completion of the facility or facilities for which the loan is made.

(5) LOAN AMOUNT.—The amount of a loan provided under this section shall not exceed the lesser of—

(A) 40 percent of the costs to be incurred in designing and constructing the facility or facilities involved; or

(B) $1,000,000,000.

(c) LOAN REPAYMENT.—

(1) LENGTH OF REPAYMENT.—

(A) IN GENERAL.—Before making a loan under this section, the Secretary shall determine the period of time within which a State must repay such loan.

(B) LIMITATION.—Except as provided in subparagraph (C), the Secretary shall in no case allow repayment of such loan—

(i) to begin later than the date that is 2 years after the date on which the loan is made; and

(ii) to be completed later than the date that is 10 years after the date on which the loan is made.

(C) MORATORIUM.—The Secretary may grant a temporary moratorium on the repayment of a loan provided under this section if, in the determination of the Secretary, continued repayment of such loan would cause a financial hardship on the State that received the loan.

(2) INTEREST.—The Secretary may not impose or collect interest or other charges on a loan provided under this section.

(3) CREDIT TO LOAN FUND.—Repayment of amounts loaned under this section shall be credited to the State Electricity Reserve Loan Fund and shall be available for the purposes for which the fund is established.

(d) ADMINISTRATION EXPENSES.—The Secretary may defray the expenses of administering the loans provided under this section.

(e) APPROPRIATIONS.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the State Electricity Reserve Loan Fund—

(1) $5,000,000,000 in fiscal year 2002;
(2) $4,000,000,000 in fiscal year 2003;
(3) $3,000,000,000 in fiscal year 2004;
(4) $2,000,000,000 in fiscal year 2005; and
(5) $1,000,000,000 in fiscal year 2006.

ADDITIONAL COSPONSORS

S. 6

At the request of Mr. DASCHLE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 6, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

S. 27

At the request of Mr. FEINGOLD, the names of the Senator from Missouri (Mrs. CARNAHAN), the Senator from New Mexico (Mr. BINGAMAN), and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 27, a bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

S. 28

At the request of Mr. GRAMM, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 28, a bill to guarantee the right of all active duty military personnel, merchant mariners, and their dependents to vote in Federal, State, and local elections.

S. 29

At the request of Mr. BOND, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 29, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 70

At the request of Mr. INOUYE, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 70, a bill to amend the Public Health Service Act to provide for the establishment of a National Center for Social Work Research.

S. 88

At the request of Mr. ROCKEFELLER, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from Colorado (Mr. ALLARD) were added as cosponsors of S. 88, a bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all